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Agent-regret in our lives

Wojtowicz, Jake

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Agent-Regret in Our Lives

Jake Wojtowicz

PhD Thesis

King's College London

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Abstract

This dissertation is a defence of agent-regret and an exploration of its role in our lives. I argue that agent-regret shows that an agent takes seriously her status as an agent who impacts the world, but who only has fallible control over it. To accept responsibility for any outcomes, she must accept responsibility for unintended outcomes, too: agent-regret is part of being a human agent. In doing this, I try to defend and develop Williams's own conception of agent-regret.

In the first part, I explore the nature of agent-regret. Agent-regret is distinct from guilt because we can feel agent-regret without being at fault. I argue that several challenges that seek to reduce agent-regret to a form of guilt fail. I further argue that agent-regret takes as its object not only something one has done, but the fact that one did it; I discuss this in terms of what Bernard Williams called taking an "external" view on one's own action.

I suggest that we can best understand the object of agent-regret as one's responsibility for an outcome. I argue that this form of "responsibility" is conceptually separate from liability or answerability; it concerns whether the outcome can be ascribed to an agent. This is a restricted form of causal responsibility but retains its agential character. I suggest that we can be responsible for outcomes even when we did not intend to bring them about.

In the second part, I vindicate the propriety of agent-regret against the ideas that we are not responsible for unintended outcomes or that such responsibility is not important. I set out several challenges to this effect. I argue that we *are* responsible for unintended outcomes because in order to be responsible as agents at all, we must use fallible abilities. When we exercise these abilities but fail, we are responsible as agents for those unintended outcomes that arise. I then consider the importance of being responsible for particular unintended outcomes and analyse the idea that this affects our identities. I argue that responsibility for an outcome affects a form of identity, but that it does not involve essential features of a person. Instead, our responsibility for outcomes is a contingent feature that nonetheless plays an important role in our interpersonal interactions and self-conceptions. I argue that these reactions are appropriate, because our responsibility for particular outcomes is independently significant—but these reactions also lend this responsibility added significance as part of inescapable human practices.

Thus our responsibility for outcomes is important. Its importance means that it can serve as an appropriate object of agent-regret that vindicates the propriety of agent-regret. I end by considering several interesting features of agent-regret, including its expression and "pure" cases, which are cases where an agent feels agent-regret despite not regretting the result of her action.

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I'd like to dedicate this thesis to two people. My grandfather(/*Dedushka/Gigi*) died years before I started this, but, with his riddles and puzzles, inspired a love of learning in me and never let me forget the importance of education. I dedicate this thesis to his memory.

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“[T]he evil which is done without design should be regarded as a misfortune to the doer as well as to the sufferer.”

Adam Smith, The Theory of Moral Sentiments

In June, 2012, a forty-two-year-old paralegal living in Illinois, whom I'll call Patricia, was driving home in the early evening when the sun suddenly hit her eyes. “I felt an impact, but a very strange impact. I thought maybe it was a deer,” she told me. Her air bags deployed, knocking her glasses off and burning her forearms. She pulled over, and ran into the road. There was blood everywhere. Then she saw a man, crumpled; his motorcycle lay beside him. Patricia tried to stanch his head wounds with her clothing. She whispered to him and called 911. A truck driver came upon the scene and pulled Patricia away from the body. “I couldn’t understand what was happening,” she recalled. “He started praying, but he was praying for me. I heard him say, ‘God, protect her. God, look out for her. God, give her strength.’ At that point, I just completely broke down.”

Alice Gregory, The Sorrow and the Shame of the Accidental Killer

Introduction

Agent-regret plays an important role in both the philosophical literature and in our lives. One thing that I have found in writing this thesis is that agent-regret is *everywhere*; or, rather, the sort of incidents that arouse agent-regret are everywhere, even if the emotion itself is often present only in a nebulous or obfuscated form. From a golfer blinding a spectator with an errant shot,¹ to a boxer killing his opponent,² to the folks whose lives have been made wretched by accidentally killing someone, and which have recently been the subject of discussion in venues like *Radio 4*, *The Guardian*, *The New Yorker*, and *This American Life*.³

My aim in this thesis is to offer an analysis of what exactly agent-regret *is* and to defend our propensity to feel it. I have a few reasons for doing this. One is that agent-regret is an oft-used and oft-ill-treated concept in philosophy. Philosophers regularly employ the concept in passing, using it to help them along to some conclusion, or attacking it on the basis of a brief sketch and the strength of their own position. But agent-regret has rarely been the subject of a sustained exploration—even, or especially, Williams’s own contributions are brief and elusive. Although my account will not be comprehensive, since I will have to omit or skim quickly over several features of agent-regret, I hope to provide a robust picture of agent-regret so that we can clearly see whether others are understanding it properly, and those who wish to attack the idea of agent-regret at least have a clear target.

¹ Bryant, “Brooks Koepka.”

² “Mike Towell.”

³ “Life After Death”; Clifford, “An Ex-Cop’s Remorse”; Gregory, “The Sorrow and the Shame of the Accidental Killer”; Bartley, “Killing a Man...”; Izard, “I Had Become a Killer”; “Meeting the Man I Killed - BBC Radio 4,” 4.

Secondly, understanding Williams's own account is important because he is one of the most significant figures of Twentieth Century philosophy. Although there are a few points at which I diverge from the letter of Williams's account, I offer an analysis not just of agent-regret but of *Williams's* notion. Thus we will be able to better see how it fits with other elements of his work—I make this explicit at several points—and will be better able to understand Williams more broadly. My focus on Williams also explains the approach I take. My aim is to argue that Williams's own account of agent-regret *and* his account of why it is important are correct. It is important to stress two aspects of this. Firstly, there is a meta-philosophical point: Williams thought that our emotional reactions were central to understanding ourselves.⁴ Understanding agent-regret is important because it is an emotion that illuminates our view of ourselves. Secondly, there is *what* Williams thinks agent-regret reveals. It reveals something about our agency, and how we need to take account of the role of luck in working out what it means to be an agent. If Williams is right, we see another reason to try to properly understand agent-regret: understanding it lets us better understand ourselves and the ways in which we interact with the world.

Finally, as I will discuss at 1.3, people often characterise their feelings not as agent-regret but as guilt, despite not being at fault. The ordinary folks who have their lives ruined by their accidental involvement in horrific events deserve to have to hand a better understanding of how they can, and should, react to these events, and how they can honour the severity of what they have done without descending into a blaming self-flagellation. Little hope of my achieving that in a dry academic thesis, but it is a start.

My hope is that the significance of agent-regret, and of understanding it properly, permeates this thesis. In the rest of this introduction, I will lay out some groundwork for the rest of this thesis, beginning with an account of the very basics of agent-regret.

⁴ See Williams, "Morality and the Emotions"; Williams, "The Point of View of the Universe: Sidgwick and the Ambitions of Ethics." Compare Strawson, "Freedom and Resentment." For a discussion of Williams's method see MacIntyre, *Ethics in the Conflicts of Modernity - An Essay on Desire, Practical Reasoning, and Narrative*, 152–58.

The Basic Cases

Before starting anything like an analysis of agent-regret, we should have a few examples in mind. The first is Williams's classic example, the second is often found in the literature.

The Lorry Driver, whilst driving perfectly carefully, hits and kills a child.⁵

The lorry driver is not to be confused with the negligent drivers who both are equally negligent but one hits a road sign and the other kills a child.⁶ Our main focus is on the lorry driver, and the clear difference between him and the negligent drivers is that he was driving perfectly carefully. He was not at fault, and we will discuss this in chapters 1 and 2.

I take the lorry driver to be a central case of agent-regret, and we will return to this case throughout. But it is a case packed with complicating factors—not least the child's agency, and the fact it is a child involved—that cloud a proper understanding of what is going on. So, it is useful to have a more mundane case with a good deal less tragedy:

Maddie accidentally, and through no fault of her own, smashes Zack's Moorcroft vase.⁷

How can she smash a vase without being at fault? I have in mind cases where she accidentally brushes against it in a corridor, or, whilst carrying it, it slips out of her hands. The basic idea behind agent-regret was that these agents do not just feel regret (because they were involved) nor do they feel guilt (because they were not at fault), rather they feel a particular emotion that attends to their involvement in the event: agent-regret.

My focus on the smashing of a vase, as well as the presence of everyday cases in the literature, captures something I want to highlight: that agent-regret is everywhere. Sometimes one can get the impression that agent-regret is a *recherché* emotion felt only

⁵ Williams, "Moral Luck," 28.

⁶ Nagel, "Moral Luck," 29.

⁷ The vase features in MacKenzie, "Agent-Regret and the Social Practice of Moral Luck," 95; Raz, *FNTR*, 244; Wolf, "The Moral of Moral Luck," 13–14.

in the grand and distant cases of Williams's literary examples, or in truly awful events like in the case of the lorry driver or other accidental killers. Yet it is with us in a variety of mundane situations, much like when Maddie smashes the vase: from spilling another person's pint, accidentally breaking a girl's leg by swinging a tennis racquet in the corridor, dropping red wine on a white couch, or bumping someone to the floor as we both round the corner.⁸ Agent-regret can be *deep*, such as when it occurs over some very important event like a death, and is *widespread*, such as in these minor but commonplace cases. Insofar as it is both widespread and sometimes deep, it is a significant emotional reaction, so to vindicate our propensity to feel it requires some heft.

Foreseen and Unforeseen

In the above cases, an agent is going about their business and, out of nowhere, a stroke of bad luck blindsides them: Maddie smashes the vase, the lorry driver runs over the child, and so on. This is the realm of **unforeseen outcomes**. They involve *outcome luck*: there is luck involved in the outcome arising.⁹ This will be the form of agent-regret that I will focus on throughout this thesis. It raises the question that we discuss in Part II: namely, how can we be responsible for outcomes that we did not intend, and why does this responsibility matter?

But there are cases of agent-regret that do not involve outcome luck (even if one might be unlucky in being in such a situation).¹⁰ This sort of case involves **foreseen outcomes**. In "Moral Luck" Williams says that sometimes "either course of action, even if it is judged to be for the best, leaves regrets—which are, in our present terms, agent-regrets about something voluntarily done."¹¹ Williams allows for this to apply to dilemmas,

⁸ Sussman, "Is Agent-Regret Rational?," 788.

⁹ This can also be called "consequential," "outcome," or "resultant" luck, see Dan-Cohen, "Luck and Identity," 6n14. It is contrasted with luck in one's circumstances or constitution, see Nagel, "Moral Luck," 28.

¹⁰ For the distinction see Baron, "Remorse and Agent-Regret," sec. 3.2. Stephen de Wijze thinks this, "tragic remorse", is different to agent-regret because it involves a "willing endorsement of a moral violation" whereas agent-regret involves luck de Wijze, "Tragic-Remorse – The Anguish of Dirty Hands," 464. I will stick to Williams's characterisation of these as cases of agent-regret.

¹¹ Williams, "Moral Luck," 31.

“tragic cases,” where no option is best;¹² and it can also apply for cases where is forced into the lesser of two evils. The classic example is Agamemnon.¹³ Agamemnon must choose between sacrificing his daughter Iphigenia and abandoning his war.¹⁴ He chooses to sacrifice Iphigenia. Williams is clear that Agamemnon does not regret what he has done due to “a persistent doubt that he may not have chosen the better thing”.¹⁵ He feels regret “not because of a doubt, but because of a certainty” and that certainty is simply that he has done something awful—whether it was a dilemma or the lesser of two evils—he has killed his daughter.

Now, we need not just apply this to tragic cases or cases in which there is great damage caused. Sometimes there will be no way of resolving a conflict between two values.¹⁶ And if we notice that sometimes two values can conflict in rather mundane scenarios, we see that there are many cases in which this sort of regret might arise.¹⁷ Should I keep my promise to meet my friend, or should I tend to the injured bird? I might regret doing either because of how it harms the bird or my friend. Should I buy the PlayStation, or should I give my money to charity? Both courses might leave me with regrets: not because either option is *awful* or the choice is *tragic* but because I clearly lose out on something,¹⁸ or they cause some sort of harm to someone, or there is something “distressing or appalling”¹⁹—or even just a little off—about what I have done, or it is not the sort of thing done by “honourable and scrupulous people”.²⁰

The basic idea behind agent-regret in cases of foreseen outcomes is that one can feel agent-regret over making a choice where one knows what will happen, but one regrets

¹² Williams, “Ethical Consistency,” 173. The rest of “Ethical Consistency” explores dilemmas and the underlying picture of obligation in more depth. See also Williams, “Conflicts of Values.”

¹³ Williams, “Ethical Consistency.” Cited at Williams, “Moral Luck,” 31n3. See also Williams, *S&N*, 132–35. And see Williams, “Practical Necessity.” For a different interpretation, according to which Agamemnon should be blamed for his *attitude*, see Nussbaum, *The Fragility of Goodness*, 33–38. Williams calls this a “moralistic distortion” Williams, *S&N*, 134.

¹⁴ He is fighting a just war, “that he could not desert without the most serious impiety”, and men are starving because the expedition has stalled Nussbaum, *The Fragility of Goodness*, 34.

¹⁵ Williams, “Ethical Consistency,” 173.

¹⁶ Williams, “Conflicts of Values.”

¹⁷ E.g. the mundane yet off-putting tasks that one might have to perform in order to achieve a worthwhile political project, at Williams, “Politics and Moral Character,” 60.

¹⁸ Carla Bagnoli offers an analysis of agent-regret in terms of the loss of a valuable alternative: Bagnoli, “Value in the Guise of Regret.” I discuss this below in 3.3.

¹⁹ Williams, “Ethical Consistency,” 174. Williams notes this wouldn’t be “moral” or give us a conflict of obligations.

²⁰ Williams, “Politics and Moral Character,” 57.

that action because it had some noxious elements, but this does not arouse guilt because one was not at fault and did as well as one could have done in a bad situation.²¹ We will mostly focus on cases of unforeseen outcomes because it is there that some interesting issues concerning agency arise. Still, I hope that my analysis of agent-regret does extend to these foreseen cases, and I leave them in the background primarily to keep the discussion streamlined and uncomplicated. I will briefly return to foreseen cases at 3.2.

Moral Luck

Many discussions of agent-regret come amidst discussions of moral luck. Williams saw himself as reacting against a particular idea of morality that he located in Kant: that moral value is both supremely important and is immune to luck.²² Kant's view is paradigmatic of "the morality system".²³ Such a system focusses on the voluntary and judges us by what we control, assuming that our intentions are fully in our own control and thus immune to luck.²⁴ By showing us the importance of agent-regret, which seems to tell us something about our agency outside the voluntary, Williams hoped to cast doubt on the morality system.²⁵

But we must be careful not to pigeon-hole agent-regret as a parochial reaction to an even-more-parochial system. Williams himself thinks that the emotions of certain Greek figures are understood by us *and them* as akin to agent-regret.²⁶ Adam Smith, writing before Kant, offered an account of a similar reaction.²⁷ Smith uses remarkably similar examples to Williams: he cites a man who rides a horse and loses control, and a man who "without the smallest degree of blameable negligence" kills another.²⁸

It is action, and our assessment of it, that will lie at the heart of this thesis, not morality. Still, many of the discussions we will encounter overlap with questions concerning

²¹ Williams, "Moral Luck," 31.

²² Williams, 20–22.

²³ See especially Williams, *ELP*, chap. 10.

²⁴ Williams, 177–78, 193–94.

²⁵ Williams, "Moral Luck," 22.

²⁶ Williams, *S&N*, 93. See also Williams, chap. 3.

²⁷ For Smith's discussion of moral luck see Smith, *TMS*, II.iii. For discussion see Crisp, "Moral Luck and Equality of Moral Opportunity"; Hankins, "Adam Smith's Intriguing Solution to the Problem of Moral Luck."

²⁸ The first example is at Smith, *TMS*, II.iii.2.10. The second at Smith, II.iii.3.4.

morality or the law. This means that many of the discussions I engage with have a different focus and arise from different interests. I will not attempt to make explicit “translations” between those projects and mine, yet hope to accurately convey the spirit of any of the interlocutors encountered below to shed light on human agency.

The Structure

This thesis is in two interlinked parts. The first part sets out the *nature* of agent-regret. In chapter 1, I distinguish agent-regret from ordinary regret and guilt. I distinguish it from ordinary regret by exploring how the object of agent-regret is the fact that I have done something, not just something that I have done; this is because I can take an *external view* on my action. When one takes an external view on one’s own action, one recognises it *as* one’s action but regards it as if *someone else* had acted, and this precludes agent-regret. I then distinguish agent-regret from guilt by exploring what the distinction between agent-regret and guilt is supposed to be, arguing that there is a form of guilt that is distinct from agent-regret insofar as this form of guilt presupposes fault and that one intended the outcome.

In chapter 2, I develop this. I suggest that the object of agent-regret is one’s responsibility for an outcome. Our responsibility for an outcome concerns whether an outcome can be ascribed to us as agents, and I distinguish this from several other understandings of responsibility. Yet why would we regret our responsibility for an outcome if we were not at fault in bringing it about? I sketch the idea that being responsible for some outcomes is worse than being responsible for others.

In chapter 3, I argue that we sometimes regret our responsibility for an outcome despite not regretting the outcome itself. This is because our responsibility for outcomes matters independently of the outcomes it creates. I call this the “pure” analysis of agent-regret. I explain how this also applies to cases of foreseen outcomes. I end chapter 3, and Part I, by summarising my account of the nature of agent-regret, and by contrasting it with several broad accounts of the nature of agent-regret.

In Part II, I defend our propensity for agent-regret by exploring whether our responsibility for outcomes is significant enough to provoke a reaction like agent-regret. As I have said, agent-regret is widespread and can be deep. This sets us a challenge: to

show that responsibility for an outcome is significant enough to engender a reaction like agent-regret.

In chapter 4, I make clear that our responsibility for outcomes *is* important, both to our status as persons and our self-respect. But my account of outcome responsibility holds that we are responsible also for outcomes we did not intend; after all, agent-regret is supposed to arise in cases like the driver's, where he clearly did not intend to kill the child. Are we responsible for outcomes that we did not intend? I sketch several challenges that claim we are not. Some claim that although we might be responsible in some sense, this is not due to any features of our agency (I noted above that I want to follow Williams's approach and to show that our responsibility for outcomes tells us something about agency); others claim that we only think we are responsible due to a mistake.

In chapter 5, I argue that our status as agents depends upon being responsible for unintended outcomes. I argue that this is based on a realistic understanding of agency and is not based on a mistake: to make an impact on the world as agents we must use fallible abilities. The basic idea is that we are also responsible for outcomes when we use these abilities and they misfire. What's more, a mature agent understands that she is fallible and cannot guarantee bringing about the outcomes she intends; the mature agent accepts that she is responsible for unintended outcomes. This is a realistic picture of human agency according to which we can make an impact on the world—we can make an impact, but imperfectly—and this grounds our responsibility for unintended outcomes

Chapter 5 establishes *that* we are (at least sometimes) responsible for outcomes that we did not intend. But this doesn't tell us much about how we should respond to our responsibility for particular outcomes, like the driver's responsibility for the child's death. In chapter 6, I turn from the picture of agency to the importance that individual instances of responsibility have for an agent. I take up a suggestion found in both Williams and Tony Honoré: that our responsibility for outcomes affects our identities. I consider Meir Dan-Cohen's claim that were we not responsible for certain outcomes we would not be the individuals that we are. I argue that this fails to make sense of our emotional reactions. Instead, I suggest that the way in which outcome responsibility affects our identities is in being a feature to which we and others respond in a way that

affects our self-conceptions and interpersonal reactions. I suggest that these reactions are inescapable, and argue that they are rightly inescapable by exploring the relation between these reactions, our features, and what it means to be a potent-but-fallible human agent. Thus our responsibility for outcomes is significant and is an appropriate object of agent-regret.

In chapter 7, I explore how this picture of identity explains: why there can be divergence over whether we think someone should feel agent-regret; taking an external view on one's own action; how we can understand agent-regret on a pure analysis; how we move on from agent-regret; and how agent-regret urges the agent to act.

Chapter 1

Agency and Regret

In 1.1, I locate agent-regret in a broader family of retrospective emotions, including guilt and regret. In 1.2, I distinguish agent-regret from ordinary regret by considering the role that agency plays in agent-regret. I draw the familiar contrast between agent-regret and regret; further, I discuss Williams’s “external” view and show this affects our conception of agent-regret: agent-regret involves not only regretting one’s own action but regretting *that* an action was one’s own. In 1.3, I turn to guilt. I consider the contrast between agent-regret and guilt in light of survivor guilt. I argue that agent-regret need not attach to faulty actions and this establishes a contrast with at least one conception of guilt. I suggest that a reasonable conception of fault leaves characters like the lorry driver and Maddie free from fault.

I leave one further issue concerning guilt until chapter 2, where we take up the question of why we might regret our actions if we were not at fault. Through chapters 2 and 3, we will come to a rough grip on why we might regret our own actions without being at fault and will further develop this in Part II.

1.1 Agent-regret, regret, and guilt

There are clear affinities between agent-regret, guilt (or remorse), and ordinary regret; when Williams introduced the idea of agent-regret in “Moral Luck”, he contrasted it with these emotions.¹ All three of these emotions are, in R. Jay Wallace’s terms,

¹ Williams, “Moral Luck,” 30.

“retrospective.”² They are retrospective because they are directed at a past occurrence (unlike fear or hope).³ We will focus only on the negative retrospective emotions (unlike nostalgia), which involve feeling pain or distress about that past occurrence; this pain is occasioned via the *thought* that the object of the emotion was somehow “unfortunate or lamentable” (unlike the twinge in my hamstring caused by an old injury).⁴ I will assume this cognitivist picture, whereby the painful feeling is aroused by a thought, throughout this thesis.⁵

Retrospective negative emotions have as their object (mediated via a thought) some past occurrence; this is regarded as lamentable and lends the emotion a painful feeling.

This understanding of these emotions is explanatory in several ways. Firstly, the fact that we regard something as lamentable explains why the emotion will be painful; as Wallace puts it, “It makes sense to be pained about an event or situation that you evaluate in negative terms.”⁶ It also explains another important feature of these emotions. When we have a retrospective negative emotion, we wish that the lamentable thing had never happened.⁷ This is because, at least in ordinary cases, to regard something as lamentable is to prefer that it had never happened. So, seeing it as lamentable makes sense of wishing it had not happened.⁸ This shows the basis behind Williams’s claim that in any case of agent-regret, there will be “a wish on the agent’s part that he had not done it.”⁹ Maddie wishes that she had not broken the vase, and this is *because* she sees her breaking the vase as lamentable. The lorry driver wishes he had not hit the child because

² Wallace, *The View from Here*, 16–19. Wallace is a sceptic about agent-regret Wallace, 40–45. See below 4.4.2.

³ We might regret something that will happen, but this is past insofar as we regret not its future happening, but the (already existent) fact that it will happen.

⁴ Wallace, *The View from Here*, 19. Carla Bagnoli appeals to a similar thought, from the other angle: for Bagnoli, one feels agent-regret, and the associated pain, in virtue of seeing the value of the option one did not choose Bagnoli, “Value in the Guise of Regret,” 177–78. For a focus on the object of regret and our attitude towards that object, see Rorty, “Agent Regret.”

⁵ See also Scarre, “The ‘Constitutive Thought’ of Regret,” 572–73. For scepticism around cognitivism, see Bagnoli, “Value in the Guise of Regret”; Jacobson, “Regret, Agency, and Error.”

⁶ Wallace, *The View from Here*, 19.

⁷ At least, we wish it had never happened under at least one description: for instance, I might regret that I broke my foot, but not regret that I broke my foot in saving my wife’s life.

⁸ Wallace, *The View from Here*, 49–50.

⁹ Williams, “Moral Luck,” 30.

he sees his hitting the child as lamentable. (Thinking about wishes is useful in understanding agent-regret, but I will only briefly discuss wishes, at 7.2.)

How do we set agent-regret apart from other retrospective emotions? Although I will nuance and expand it, the following offers us a basic understanding of agent-regret:

Agent-regret has *what I have done* as its object; what I have done is regarded as lamentable—even if I was not at fault in doing it—and this gives agent-regret a painful feeling.

Ordinary regret need not involve what I have done, and guilt seems to involve fault. This characterisation clearly needs sharpening and we need a deeper grasp of the ways in which agent-regret is distinct from guilt and ordinary regret. I will focus, in the rest of Part I, on how agent-regret involves our agency and how it can be free from fault.¹⁰

1.2 Agency

In this section, I will explore the way in which agent-regret involves regretting one's action. We will further develop how agent-regret attaches to one's own action in chapter 2, where I will argue that the object of agent-regret is one's responsibility for an outcome.

1.2.1 The first person

Let's start by establishing a distinction between regret and agent-regret. Most famously, a spectator to the lorry driver's accident might regret what happened.¹¹ She might regret the actions of the child who ran into the road, or of the child's parents in letting him play so close.¹² Keaton might regret that Maddie smashed Zack's vase. In none of these cases does the person who feels regret have to be *involved* in the regrettable occurrence. Anyone who thinks such a thing was lamentable might regret it, and this is because regret

¹⁰ For a similar focus on fault and agency, see Sussman, "Is Agent-Regret Rational?," 790–95.

¹¹ Williams, "Moral Luck," 28.

¹² Scarre considers a case where the lorry driver regrets not his own action but the child's: See Scarre, "The 'Constitutive Thought' of Regret," 577. See Williams's discussion of the javelin thrower: Williams, *S&N*, 61–62.

can take as its object states of affairs, things that have happened, or other people's actions.¹³ This is regret in the "general sense";¹⁴ or what I will call "ordinary regret".

Regret has some past occurrence as its object; this object is regarded as lamentable and this gives regret a painful feeling.

This is a broad characterisation of regret. Some philosophers characterise regret more narrowly, suggesting that regret involves human agency.¹⁵ Others note that if we just define regret in my way, it might be too general to be an illuminating characterisation of any emotion.¹⁶ But my use of regret fits with Williams's own use.¹⁷ What matters for our purposes is not so much whether regret is broadly understood or narrowly understood, whether it is a class or species of emotion, nor whether agent-regret is an entirely distinct emotion from regret or just a species of it. What matters for our purposes is that we can see that there is a standard sort of regret that does not presuppose involvement, and that agent-regret is clearly distinct from (or within) this.

But agent-regret requires more than mere involvement: Zack does not feel agent-regret that Maddie smashed his vase.¹⁸ Rather, it concerns one's *agential* involvement, it concerns an agent's "own past actions".¹⁹ Now, it isn't just that one's agential involvement allows one to feel agent-regret; rather, the *object* of one's agent-regret is one's agential involvement. The thing we think is lamentable is not just any state of affairs, nor is it just any occurrence or action; rather, the object of agent-regret is, at least for this current broad characterisation, one's own exercise of agency. Thus agent-regret arouses a

¹³ Williams says that one regrets *states of affairs*. Williams, "Moral Luck," 27. I don't think much hangs on this; it is clear that I can regret that the lorry driver killed the child, rather than just regretting the child's death.

¹⁴ Williams, 27.

¹⁵ Bittner, "Is It Reasonable to Regret Things One Did?," 262. In some of the psychological literature, regret turns around our own deliberative errors: see Kahneman, *Thinking, Fast and Slow*, chap. 32. Kahneman references Zeelenberg et al., "On Bad Decisions and Disconfirmed Expectancies." John Gardner thinks all regret concerns (someone's) agency Gardner, "Wrongs and Faults," 58 n.19.

¹⁶ Jacobson, "Regret, Agency, and Error," 97. But even if we define regret broadly, we can define subspecies such as ordinary regret, which cannot attach to one's own action.

¹⁷ See also Sussman, "Is Agent-Regret Rational?," 793.

¹⁸ We discuss "personal regret" at 4.3.2; this is a form of regret that presupposes some sort of involvement but not necessarily agential involvement—Zack may feel personal regret. I agree that this is a useful category and deepens our understanding of the varieties of regret.

¹⁹ Williams, "Moral Luck," 27.

different wish that things could have been otherwise, a wish not just about how things turned out, but about how “one might have acted otherwise.”²⁰

The point is that Maddie can think “what *I did* was lamentable... I wish I hadn’t done it.” Agent-regret takes what I have done as its *object*. So, what we regret when we feel agent-regret is specific:

Agent-regret laments that *I did such a thing*.

Proviso: Agent-regret is *agent* regret rather than *action* regret. It can attach to actions of my team or group.²¹ Or, the lorry driver’s cab-mate can feel agent-regret if he thinks he “might have prevented [the child’s death], an agent’s thought.”²² Other sorts of omissions might also arouse agent-regret. I will only discuss agent-regret that arises over actions, but I hope that what I say is amenable to adaptation. For instance, in 2.3.1 I say that one must intend to do something and be causally related to it in order to be responsible for it. To broaden, we might think that the cab-mate *could have* reached over and pulled the brake; because he could have done that, we might extend to him an agent’s thought.

Most pictures of agent-regret leave it at this. But agent-regret is *not* just the same as regretting one’s own action. Agent-regret has a thicker object than merely one’s own action. This is because one might regret something that one has done in *just the same way* as one regrets anyone else’s actions and thus feel ordinary regret, *not* agent-regret.²³ We saw above that Keaton might regret that Maddie smashed the vase—Maddie might *also* feel ordinary regret about her smashing of the vase. Williams calls this regarding one’s action (that one recognises as one’s own action) “purely externally, as one might regard anyone else’s action”.²⁴ I have discussed this in more depth elsewhere, but it is

²⁰ Williams, 27.

²¹ One must be a “participant” Williams, 27. See Baron, “Remorse and Agent-Regret,” 274–78; Dan-Cohen, “Responsibility and the Boundaries of the Self,” 986–89.

²² Williams, “Moral Luck,” 28.

²³ Williams, 27.

²⁴ Williams, 27.

important to have a rough grip on the external view since it makes clear exactly what the object of agent-regret is.²⁵

1.2.2 The external view

Understanding what it means to take an external view on our own actions is important. But most accounts of agent-regret go by without a mention of taking an external view on one's own action. So, does it really matter? Well, we will later (in 7.4) see that the external view illuminates an important feature of agent-regret: its particular *expression*. In short, when one takes an external view, one might be willing to pay compensation but is satisfied with an insurance pay-out to the victim of one's actions, whereas when one feels agent-regret one is not left satisfied by a pay-out.²⁶ Appreciating the external view helps us understand this. But more importantly than explaining this feature of agent-regret, understanding the external view will also allow us to see what *exactly* the object of agent-regret is. What does it mean to take an external view on one's own action and feel ordinary regret rather than agent-regret?

Keaton feels a certain regret over Maddie smashing the vase. Let's suppose that he doesn't just regret that the vase smashed but regrets that *someone* smashed the vase.²⁷ The idea behind the external view is that we can imagine Maddie (let's call her Maddie^{Ext} when she takes an external view) knowing she smashed the vase but feeling regret in *just the same way* that Keaton feels regret. For instance, we can imagine Maddie^{Ext} saying to Zack something like "It's a shame someone smashed your vase" rather than "I'm so sorry I smashed your vase". Here is another example: perhaps one might take an external view on an action one performed long ago. Arnold might regret that his grandson carved graffiti into a tree, and then he remembers that he did such a thing himself as a kid. We can imagine Arnold thinking that carving graffiti into a tree is a regrettable thing for a child to do, but he might think back on his own action and regret it in just the same way as he regrets his grandson carving into a tree. Both Maddie and

²⁵ See Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally."

²⁶ Williams, "Moral Luck," 28.

²⁷ The discussion closely follows Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 53–54.

Arnold might regret these actions, but they regret them in the same way that they might regret anyone else's actions.

How does a thought like "I regret the vase was smashed (and I recognise I smashed it)" differ from the thought involved in agent-regret? Above I characterised agent-regret as lamenting *that I did* such a thing. An external view is different. It still involves regret. But Maddie^{Ext}'s regret is not directed at *Maddie^{Ext}* doing a certain thing. Rather, when she takes an external view she regrets that something was done (the vase was smashed) and recognises that she did it. She regrets something that is her doing, but she regrets the *doing* not the fact that it was *her* doing. When she feels agent-regret she regrets her doing. So, agent-regret and an external view have different objects. Maddie^{Ext} regrets an action, which was her action; Maddie regrets it as her action.²⁸

When someone regrets their own action but takes **an external view**, they regret that action, they recognise that they performed that action, but they do not regret the fact that they performed that action so do not feel agent-regret.

This shows that agent-regret requires more than a "first-personal subject-matter", it requires more than just regretting one's own action.²⁹ Instead, as Marcia Baron puts it, "That *he was the agent*...is ineliminably a part of what he feels."³⁰ And Raimond Gaita says that agent-regret is "directed not only to what we did or to its effects, but also at the fact that *we* did it."³¹ The point here is that someone who feels agent-regret has the self-referential thought "I regret that *I did it*".³² When I take an external view, that I was the agent is not ineliminably part of what I feel; nor is my regret directed at the fact that I did it.

Further, an agent can take an external view on an action that might also have aroused, in that agent, agent-regret. It isn't the type of action that precludes agent-regret; rather, it

²⁸ Wojtowicz, 51.

²⁹ Williams, "Moral Luck," 27.

³⁰ Baron, "Remorse and Agent-Regret," 261.

³¹ Gaita, *Good and Evil: An Absolute Conception*, 53. David Sussman also brings out the importance of "I": Sussman, "Is Agent-Regret Rational?," 794-95. See also Raz, *FNTR*, 233.

³² See Williams, "Moral Luck," 27. Scarre contrasts the driver considering what else he could have done, with a driver who considers what else the child could have done; the first is agent-regret, the second is ordinary regret, Scarre, "The 'Constitutive Thought' of Regret," 577. Note, the driver here doesn't take up an external view because he doesn't take up a view on his own agency.

is taking a particular kind of attitude.³³ We can also imagine Maddie^{Ext} feeling agent-regret (as she does in the standard case), and we might imagine Arnold feeling agent-regret, too. What seems to happen in taking an external view is that an agent recognises that she did it, and it was regrettable, but something steps in to prevent her from regretting her doing it and leaves her only regretting that it was done. How do we explain why one might take an external view or feel agent-regret? I do not want to offer a full analysis of this here but do wish to close off some possible misunderstandings. For instance, Joseph Raz attempts to distinguish taking an external view from feeling agent-regret by way of JR who *forgets* that he performed such an action, and when he realises that he was the agent he again feels agent-regret.³⁴ But such an understanding of the external view doesn't explain why someone who takes an external view would be willing to pay compensation, because if I have forgotten I did it, why would I think I should compensate as opposed to anyone else compensating?

Further, philosophers who are interested in Williams are often tempted (at least, as I have found in conversation) to explain the external view in terms of Nagel's external view or Williams's extrinsic luck. I discuss the failure of such accounts elsewhere but let me briefly recap. Take, first, extrinsic luck. Williams thinks that luck can affect a project in one of two ways.³⁵ On the one hand, there is luck intrinsic to a project, such as Gauguin failing because he doesn't get a lucky stroke of creativity; on the other, there is luck seemingly unrelated to the project, such as Gauguin crashing on the way to Tahiti.³⁶ If he fails due to intrinsic luck he feels agent-regret;³⁷ if he fails due to extrinsic luck he regrets what has happened, but does not think that *he* has failed.³⁸ But this shows why we cannot understand the external view in terms of extrinsic luck: when one suffers extrinsic luck and feels regret, one tends to regret what *happened*, not one's *action*. Gauguin regrets that he never became a painter or that he was injured, he does *not* regret

³³ Williams, "Moral Luck," 28; Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 54.

³⁴ See Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 52–53. Raz introduces this idea at Raz, *FNTR*, 233–34. On Raz's account: Oedipus, who "moves to the discovery of just one thing, that *he did it*" (Williams, *S&N*, 69.), had previously taken an external view; in Nathan's rebuke of David (2 Samuel:11-12), David takes an external view, when he hears the story of the greedy flock owner and realises that he is (metaphorically) the greedy flock owner he takes an internal view.

³⁵ Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 54–56.

³⁶ Williams, "Moral Luck," 25.

³⁷ Williams, 27. The discussion explicitly concerns Anna Karenina, but applies to Gauguin.

³⁸ Williams, 25, 36.

his action, say, setting off to become a painter. Likewise, Nagel's external view doesn't allow for us to regret an action.³⁹ Nagel's "external view" involves taking a mechanistic view on the world such that an action becomes very much like an event—so we lose our grip on the idea that something is an action and can be regretted as an action.⁴⁰

My own approach was to suggest two promising analyses of the external view: either one might accept an action as one's own yet not *identify* with it or one does not *care* about the fact that one performed that action.⁴¹ Maddie might take an external view because she does not *care* about what she has done, or does not *identify* with her action. We will return to this in chapter 7. For now, we must see that agent-regret involves regretting that I did such a thing. It is not ordinary regret since it involves one's own agency. And it is thicker than *just* regretting an action and recognising that the action was my own since one can regret something that in fact is one's own doing yet not regret the fact that it was own doing. Agent-regret involves regretting *that I did it*.

1.3 *Guilt and fault*

I will return to this in more depth in chapter 2, but we should have a good enough grip on the object of agent-regret to now be wondering: if agent-regret involves regretting what I have done, how is it any different to guilt? After all, guilt also seems to involve one's own actions, and when one feels guilt one does not take an external view.

Guilt has some past faulty behaviour (or wrongdoing) of mine as its object; this object is regarded as lamentable and this gives guilt a painful feeling.

In "Moral Luck", as well as contrasting agent-regret with ordinary regret, Williams contrasted agent-regret with two related concepts: fault and remorse.⁴² Fault is a

³⁹ Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 56–58.

⁴⁰ For Nagel on the external view see Nagel, *The View From Nowhere*; Nagel, "Moral Luck," 37–38; Nagel, "Subjective and Objective"; Thomas, *Thomas Nagel*, chap. 5.

⁴¹ Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 58–66. Although not focussed on the external view, see also: Dan-Cohen, "Responsibility and the Boundaries of the Self," 999–1001; Davies, "Paternalism and Evaluative Shift," sec. 4.

⁴² For a few examples of various philosophers who contrast agent-regret with guilt, remorse, or fault—many of which are subtle discussions that introduce their own complexities—see MacKenzie, "Agent-Regret and the Social Practice of Moral Luck," 105; Scarre, "The 'Constitutive Thought' of Regret," 570–71; Baron, "Remorse and Agent-Regret," 260–61; Raz, *FNTR*, 235–235.

normative judgment, remorse is an emotion that responds to this. Williams claims we need to move away from a “dichotomy” between “*regret* and *remorse*”.⁴³ And that is because agent-regret is distinct from them both:

Agent-regret is **distinct from some notion of guilt**.

I use “guilt” interchangeably with “remorse”.⁴⁴

Williams pinpoints two features of guilt: fault, and the voluntary.⁴⁵ Williams wrote, famously, that the lorry driver runs over the child “through no fault of his own” and that we can admit that it “was not his fault.”⁴⁶ So, Agent-regret can arise in cases in which the agent is not at fault.⁴⁷

Agent-regret can arise in cases where the agent is **not at fault**.

In *Ethics and the Limits*, Williams links guilt to blame, and he further links blame to doing what one ought not.⁴⁸ An agent who feels guilt feels this emotion because he can blame himself, and he can blame himself because he was at fault (he did what he ought not do). But the lorry driver needn’t blame himself, because he did as well as he could in the circumstances. The difference here between guilt and agent-regret comes out if we think that there is a difference between the emotion felt by our lorry driver and a reckless or drunk driver.

⁴³ Williams, “Moral Luck,” 30.

⁴⁴ Perhaps these are not interchangeable, see Batho, “Remorse”; Sussman, “Is Agent-Regret Rational?,” 792–93. I prefer guilt because “remorse” can sound too severe, and guilt seems more recognisable. Further, Williams uses “guilt,” “remorse,” and “self-reproach” interchangeably in Williams, *ELP*, 176–78, 191.

⁴⁵ Williams, “Moral Luck,” 30.

⁴⁶ Williams, 28. Agent-regret arises in cases free of “agential pitfalls and shortcomings” Bagnoli, “Rooted in the Past, Hooked in the Present,” 767.

⁴⁷ I do not make the stronger claim that one only feels agent-regret when one is not at fault. Williams seems to allow that one might feel agent-regret and be at fault; for instance, Gauguin certainly demonstrates some fault when he abandons his family. We might think that Gauguin feels agent-regret about his action not *because* of his fault but because he fails, while he can feel guilt about his action based on his fault. So, it might be that the features of the action that appear in the object of the emotion distinguish agent-regret from guilt even when one is at fault. Relatedly, there is a viable position according to which guilt and blame attaches solely to what is in our control yet agent-regret might attach to unintended consequences. See Wolf, “The Moral of Moral Luck,” 16–17.

⁴⁸ Williams, *ELP*, 176–78, 191.

Secondly, we can only feel guilt over what we have voluntarily done, but we can feel agent-regret about the voluntary or the involuntary.⁴⁹ The point is just that one's action does not have to be voluntary in order to arouse agent-regret.⁵⁰ Or, more precisely, the regrettable action need not be voluntary—driving was a voluntary act of the driver's, killing the child was not, and it is killing that he regrets. This relates to the intended. What I mean by these terms is illustrated by the lorry driver's case: an action is voluntary (driving) or involuntary (killing), an outcome is intended (getting to one's destination) or unintended (the child dying).⁵¹ The driver intended to get to the depot and voluntarily drove; he did not intend to kill the child and the killing was not voluntary. I will tend to use "voluntarily" and "intentionally" on the one hand, and "non-voluntary"/"involuntary" and "unintentionally" on the other, interchangeably. (See 2.2 and 2.3.1.)

Agent-regret can arise over **non-voluntary** actions.

Although guilt is restricted to the voluntary, agent-regret can arise over both the voluntary and the involuntary.

So, agent-regret can arise when the agent is not at fault, can arise when the agent's action was not voluntary, and is distinct from guilt at least insofar as guilt is restricted to the voluntary and the faulty. This brings us to a family of challenges to agent-regret. So far, I have just been trying to sketch the object of agent-regret, without much resistance; now we must turn to genuine worries for whether there is indeed a distinct emotion with such an object. A broad and wide-spread line of argument holds that there is no such thing

⁴⁹ Williams, "Moral Luck," 30. In foreseen cases, we feel agent-regret about the voluntary Williams, 31.

⁵⁰ Williams is trying to make a point about the ways in which our agency itself is influenced by the non-voluntary Williams, "Moral Luck," 29–30. We return to this in much more depth below. Others recognise that the point is that agent-regret is not restricted to the involuntary, rather than that it is contrasted with the voluntary; for example, Fricker, "Fault and No-Fault Responsibility for Implicit Prejudice: A Space for Epistemic 'Agent-Regret,'" 45–47; Bagnoli, "Value in the Guise of Regret," 176n31; Wallace, *The View from Here*, 34.

⁵¹ This distinction at least fits with some aspects of Williams's work where he expands on what he means by "voluntary" He says that "an agent does X fully voluntarily if X-ing is an intentional aspect of an action he does, which has no inherent or deliberative defect." Williams, "Voluntary Acts and Responsible Agents," 25. (Sleepwalking and hypnosis are examples he gives of defects). Elsewhere he says "a certain thing is done voluntarily if (very roughly) it is an intentional aspect of an action done in a normal sense of mind." Williams, *S&N*, 66. See also Williams, *ELP*, 177–78, 193–94.

as agent-regret, and instead agent-regret is not (importantly) distinct from some other emotion; often the claim is that agent-regret is actually guilt.

Challenges from guilt: agent-regret is just a form of guilt.⁵²

Sometimes this is not so much an argument as characters describing themselves as feeling guilty because guilt is more fitting than ordinary regret.⁵³ Take the following exchange between Jonathan Izard and MaryAnn Gray, both of whom killed someone in a car accident:

Jl: "Was the right word guilt for your feeling in those first few weeks and months?"

*MG: "Absolutely. The accident, my accident, was not my fault. Really nobody, including the boy's family, blamed me. But I blamed myself. I was the one driving the car that hit and killed an 8-year-old boy."*⁵⁴

Yet Jonathan Bartley, another accidental killer, questions whether what he feels is actually guilt.⁵⁵

Given that Williams is so insistent that agent-regret is distinct from guilt, for Williams to be right we need to find a form of guilt that clearly contrasts with agent-regret, such that there may still be cases of agent-regret that are not just swallowed up by guilt and that are applicable to these real-world cases. In the following, I explore some philosophical challenges to the idea that agent-regret is a distinct emotion. In doing so I want to show how there is conceptual space for agent-regret. In 1.3.1, I consider the first challenge, a threat to agent-regret's distinctness that arises by considering what it means to feel guilt. The *survivor guilt challenge* claims that guilt *needn't involve fault* and can *arise over the*

⁵² Nancy Sherman thinks that "agent-regret" doesn't capture the severity of an agent's feeling, and that it must be a form of guilt: Sherman, "The Moral Logic of Survivor Guilt."

⁵³ Take this quote from William Nash, the Marine Corps' director of psychological health: "If you're responsible for someone else's accidental death, guilt and shame are appropriate emotions. They are telling you that you need to do something to atone or make amends for your error." Cited in Gregory, "The Sorrow and the Shame of the Accidental Killer." See the good cop presented as feeling remorse in Clifford, "An Ex-Cop's Remorse." Hear about the "guilt" of the accidental killers, Jonathan Bartley, MaryAnn Gray, and Jonathan Izard: Gregory, "The Sorrow and the Shame of the Accidental Killer"; "Green Party Co-Leader on Car Crash Killing"; Bartley, "Killing a Man..."; Izard, "I Had Become a Killer"; "Meeting the Man I Killed - BBC Radio 4."

⁵⁴ "Meeting the Man I Killed - BBC Radio 4," 27:28.

⁵⁵ "Meeting the Man I Killed - BBC Radio 4," 20:45.

involuntary, so agent-regret is just a form of guilt. I admit that when guilt is understood in this capacious sense, agent-regret can be a form of guilt—but this is no challenge to us since the contrast with agent-regret is really with “narrow guilt”. I further explore the guilt of the morality system, which is the form of narrow guilt that Williams contrasted with agent-regret in “Moral Luck”, and which involves both fault and voluntariness.

In 1.3.2 we come to the second and third challenges. We find the second challenge expressed, albeit tentatively, by Adam Smith. This is the *fault challenge*, which claims that our characters are *actually at fault* and so feel guilty. I argue that the fault challenge is misguided: a plausible notion of fault leaves the driver and Maddie free of fault, this is because fault must involve a failing in one’s conduct and they exhibit no such failings. The third challenge arises in several discussions of agent-regret. This is the *doubts about fault challenge*, which claims that our characters *think they are (or might be) at fault*, so either they actually feel guilt, or agent-regret involves the mistaken perception of fault. I argue that it is implausible to hold that agents must think they are (or might be) at fault. By the end of 1.3, we will have seen several ways in which agent-regret is distinct from guilt and fault and will have established the contrast Williams had in mind between agent-regret and guilt.

But we will not yet address a final challenge, the *object challenge*. This holds that to regret one’s own action one *must have been at fault*. It questions how we can even think our actions are regrettable if we were not at fault. We turn to this challenge in chapter 2.

1.3.1 The contrast with guilt

The first challenge from guilt alleges that agent-regret is just the same as guilt because there are other forms of guilt that do not involve fault and can arise over the involuntary; thus the characterisation of guilt is flawed. The classic example is survivor guilt.

The survivor guilt challenge: the concept “guilt” covers cases in which the agent is not at fault, and it is not restricted to the voluntary (e.g. survivor guilt). So, agent-regret is just a form of guilt.

The reply to this challenge is simply that it misses the point: agent-regret is not *supposed* to contrast with just any stipulated form of guilt. We will see that there is a capacious

sense of guilt which might overlap with agent-regret. But it is also vital that we find some variety of guilt that stands in contrast to agent-regret, given Williams's insistence that there is some contrast between guilt and agent-regret.

In *Shame and Necessity*, Williams briefly explores guilt.⁵⁶ He suggests that guilt is aroused by an action (or omission) that "typically elicits from other people anger, resentment, or indignation" and calls for, and can be abated by, "reparation".⁵⁷

Capacious guilt is aroused by an act that typically arouses the anger or resentment of others, and often calls for reparations.

This is a very broad understanding of guilt: it makes no reference to fault or wrongdoing, nor does it presuppose that one's action was voluntary.⁵⁸ Others offer similar analyses of guilt, analyses that do not implicate an agent's fault or which do not attach only to the voluntary. For instance, David Velleman thinks we can feel guilty for surviving a plane crash (*survivor guilt*)⁵⁹ or for eating ice cream.⁶⁰ On Velleman's picture, we can feel guilty when we are "defenceless" against negative responses like "blame [or] resentment" and we are defenceless "because they are warranted", but we need not be at fault for these responses to be warranted.⁶¹ So, there might be some notion that we rightly call "guilt" that does not involve *fault* but counts as guilt because it involves defencelessness or the warranted anger of others. One might think that if a capacious understanding of guilt is the correct understanding of the concept of guilt, this collapses the distinction between agent-regret and guilt.⁶²

⁵⁶ Williams, *S&N*, 88–95.

⁵⁷ Williams, 89.

⁵⁸ Williams, 92–93.

⁵⁹ Survivors may feel guilt if they think they did not put in enough effort to help others Velleman, "Don't Worry, Feel Guilty," 167. But survivor guilt is also supposed to extend beyond this, "to denote guilt experienced about the mere fact as having survived" Velleman, 167–68. See also Sherman, "The Moral Logic of Survivor Guilt"; Morris, "Nonmoral Guilt," 232–37.

⁶⁰ Velleman, "Don't Worry, Feel Guilty," 156.

⁶¹ Velleman, 157. For another account that divorces guilt from wrongdoing see, Morris, "Nonmoral Guilt." Compare, also, Ulrika Carlsson's account of tragic resentment: Carlsson, "Tragedy and Resentment (Online First)." Carlsson thinks you may rightly resent someone for not loving you; and they may feel something like guilt, despite not being at fault Carlsson, 17.

⁶² See Jacobson, "Regret, Agency, and Error," 107.

But Williams grants that agent-regret may be a form of capacious guilt.⁶³ Others may direct their anger or resentment at me, and may feel they have a claim to compensation, even in cases of agent-regret.⁶⁴ But those tempted by the claim that agent-regret is just a form of guilt because survivor guilt is a form of guilt, a form of guilt that does not involve fault or voluntariness, miss the mark. The existence of survivor guilt as a form of guilt is a threat to the distinctness of agent-regret only if we think the important contrast is between capacious guilt and agent-regret.

In *Shame and Necessity*, Williams suggests that there might be another form of guilt that involves certain “kinds of failing or inadequacy”.⁶⁵ As we might construe this: when one’s action proceeds from such a failing or instantiates some inadequacy, one is at fault.

Narrow guilt is aroused by an act that involves fault on the agent’s part that typically arouses the anger or resentment of others, and often calls for reparations.

Further, Williams thinks that for this form of guilt to be a viable, rational emotion that people should feel, we need to understand “what those failings mean in the context of our own and other people’s lives.”⁶⁶

The paradigm form of narrow guilt for Williams is the guilt of “the conceptions of modern morality” that insist on restricting guilt to the voluntary.⁶⁷ Such a restriction arises because, on this picture of morality, religious insight or reason gives us knowledge of the moral law and we “need only the will to obey it.”⁶⁸ Any failure is thus based on the agent’s own will and is thus located in “the agent’s own contribution”.⁶⁹ On this picture, a failure of reason or insight is the special kind of inadequacy which gives guilt its importance.

⁶³ Williams, *S&N*, 92–94. See also Fricker, “Fault and No-Fault Responsibility for Implicit Prejudice: A Space for Epistemic ‘Agent-Regret,’” 45.

⁶⁴ Williams, *S&N*, 93–94.

⁶⁵ Williams, 94. See also Williams, *ELP*, 177–78, 193–94.

⁶⁶ Williams, *S&N*, 94. He goes on to add understanding these inadequacies, and their role of our lives, “is the territory of shame.” This is what Williams means with the enigmatic “Shame can understand guilt, but guilt cannot understand itself.” Williams, 93. In understanding what arouses shame, and why, we will understand the faults and the flaws that can give rise narrow guilt, and the importance of narrow guilt.

⁶⁷ Williams, *S&N*, 91.

⁶⁸ Williams, 94–95.

⁶⁹ Williams, *ELP*, 194.

This is the guilt of “the morality system”—which we encountered in the introduction—that Williams rallied against.⁷⁰

The guilt of the morality system is aroused by an act that involves fault at the level of the voluntary that typically arouses the anger and resentment of others, and often calls for reparations.

The role of the voluntary, and the connection with guilt, comes out when we attach fault to one’s failure to do what one voluntarily can do: conform one’s will to reason.

This is the guilt that Williams thought contrasted with agent-regret. Firstly, it is restricted to the voluntary whereas agent-regret can also apply to the involuntary; secondly, insofar as it is a narrow form of guilt, it requires fault—where fault is located in the voluntary—whereas agent-regret does not. Thus we see why agent-regret contrasts with the guilt of the morality system both in terms of voluntariness and fault.

Agent-regret is **distinct from the guilt of the morality system** that presupposes **fault** at the level of the **voluntary**.

The existence of a capacious notion of guilt does not really matter to us in trying to understand agent-regret. What matters is that there is this narrower version of guilt that does indeed contrast with agent-regret.

Williams thinks the guilt of the morality system is a castle built on sand because it does not—perhaps cannot—properly justify the importance of a failure to conform one’s will to reason.⁷¹ This is an important point in understanding moral luck and the importance of morality overall. But this takes us too far from our project; the point for us is that it provides a contrast with agent-regret. It should be clear that common cases of agent-regret do not involve any fault at the level of voluntariness: the lorry driver drives carefully yet we still seem to grant that he should feel agent-regret.

⁷⁰ See Williams, chap. 10.

⁷¹ One problem he raises is that the guilt of the morality system presupposes a characterless self, thus it fails to give insight into *our* (characterful) lives: Williams, *S&N*, 94. Related to this see Williams, “PCM”; Williams, “A Critique of Utilitarianism.” His other main criticism is the argument of “Moral Luck”: that the conception of agency is flawed.

1.3.2 Fault

Sometimes Williams makes it seem that the important difference between agent-regret and guilt is the restriction of fault to the voluntary.⁷² But really, there are two differences: agent-regret need not involve fault, and it need not be restricted to the voluntary, it's just that the guilt of the morality system runs together fault and voluntariness. What we have seen so far is that agent-regret as an emotion is conceptually separate from the guilt of the morality system. This is useful: it helps us see what picture Williams was trying to draw when he claimed that remorse and regret could not make up the entirety of this set of emotions.

But it does not show that there is indeed an emotion like agent-regret that applies to the non-voluntary and is free from fault. Even though agent-regret is conceptually distinct, a new challenge could claim that there are other sorts of fault, other than those presupposed by the morality system, according to which an agent who feels agent-regret is actually at fault. Perhaps the fault can exist at the level of the involuntary, or we might justify attaching fault to the voluntary in some other way.⁷³ Associated with this we might find a different notion of guilt.⁷⁴ Yet I take it that a plausible conception of narrow guilt will involve fault in a way that agent-regret need not.

In the rest of this chapter, I will argue that we need not be at fault to feel agent-regret, and in chapter 2 will develop *how* we can feel agent-regret without being at fault. (We will turn to the voluntary in more depth in chapters 4-6.) Let's start with another challenge:

⁷² See also Baron, "Remorse and Agent-Regret," 268n26.

⁷³ Roger Crisp, channeling Strawson, thinks morality turns around the quality of our wills. Crisp, "Moral Luck and Equality of Moral Opportunity," 8. See Strawson, "Freedom and Resentment," 70. Wallace thinks that our voluntary performances concern a "lapse of agency": Wallace, *The View from Here*, 40. Perhaps there is a characterful understanding of the quality of our wills or agency that establishes a viable form of guilt that attaches only to the voluntary. This strikes me as promising, but I will not pursue it here.

⁷⁴ Perhaps guilt can arise due a failing such as culpable ignorance (Williams, "Voluntary Acts and Responsible Agents," 25-26.) or due to some "generally reprehensible characteristic...[like being] careless, or lazy, or self-serving, or something of the sort" (Williams, "Internal Reasons and the Obscurity of Blame," 40.) For a similar account, which suggests the importance comes in what we should *control*, see: Fricker, "Fault and No-Fault Responsibility for Implicit Prejudice: A Space for Epistemic 'Agent-Regret,'" 41-42.

The fault challenge: characters who allegedly feel agent-regret are actually at fault and should feel guilty.

I want to deal with this briefly: I do not think that there is a plausible way of alleging fault in Maddie or the lorry driver that respects the fact that there is a useful distinction between cases like the ones we have so far explored, and cases where one's conduct is clearly substandard.

It's important to note that if all we mean by "fault" is that one's action ended up somehow regrettable, that one's action somehow has something bad about it, we haven't so much shown that agent-regret involves fault as shown that sometimes our actions can be lamentable regardless of our conduct. Someone who wants to employ such a notion of "fault" and wants to explain *why* we should care about doing something regrettable is pursuing the same project as me.⁷⁵ For this challenge to be interesting, we need to say something a bit more than just that fault involves doing a bad thing. It strikes me that we would need to instead impugn the lorry driver's *conduct*, and presumably Williams, when he said the lorry driver was not at fault, meant that the lorry driver's conduct was unimpeachable—harking back to what we have seen above, he did as he ought, or he was not to blame. We do not think that there's something he *should* have done differently.⁷⁶

Our characters may well have been at fault had they been drunk or reckless or even had they not paid proper attention—surely any plausible picture of fault and narrow guilt will make sense of this. But we must distinguish our driver from a drunk driver. If we make the notion of fault too broad, we lose this; yet clearly it is an important ethical feature. On a reasonable understanding of fault, our characters will be free of fault, and thus will not appropriately feel guilt. Agent-regret is distinct from such a notion of guilt insofar as

⁷⁵ See Adam Smith's discussion at Smith, *TMS*, II.iii.2.10. See also Smith, II.iii.3.5.

⁷⁶ See Baron, "Remorse and Agent-Regret," 267. Julie Tannenbaum notes that there was nothing "rationally accessible" to the agent that tells against the course of action: Tannenbaum, "Emotional Expressions of Moral Value," 51, 56; Tannenbaum, "Moral Responsibility without Wrongdoing or Blame," 143–47. This is a good way of understanding fault: I did what I should, given what was rationally accessible. What Susan Wolf calls the "rationalist position" on moral luck exhibits this feature: "one thing moral faultiness is not a function of, according to this position, is how the action turns out." Wolf, "The Moral of Moral Luck," 6. Fault, on this picture, does not depend on how things turn out (which is rationally inaccessible).

agent-regret need not involve fault, thus construed. This is, of course, nothing like a complete analysis of what it means to be at fault, but I hope it makes plausible the idea that there is a robust notion of fault and agent-regret need not involve it.⁷⁷

Yet still a further challenge comes from considering not just whether our agents were at fault, but whether they might think they were. Several philosophers hold that sufferers of agent-regret are confused: they don't believe that they were innocent, and instead feel some form of narrow guilt. The lorry driver might think that he was at fault, or he might entertain reasonable doubts as to whether he was at fault, and thus feel guilty.⁷⁸ On such an account, *perceived* fault, or the perception of *possibly* being at fault, is central to agent-regret.

The doubts about fault challenge: characters who allegedly feel agent-regret actually think they were at fault, or wonder whether they were at fault, so feel something closer to guilt.

A development of this (see also 4.4.1) suggests that agent-regret is a response to our epistemic limitations: we can't be sure whether we were at fault, so it's good to act as if we were.⁷⁹ Agent-regret is just guilt where the agent wasn't actually at fault, but he thinks that he was, or might have been, at fault.

⁷⁷ One might think that the agent has nonetheless done something *wrong* (especially if we think that, say, strict liability cases open us up to liability, but liability is predicated on wrongs). John Gardner thinks we can do something wrong, despite taking the proper care and being justified. See Gardner, "Obligations and Outcomes"; Gardner, "The Wrongdoing That Gets Results"; Gardner, "Wrongs and Faults"; Gardner, *From Personal Life to Private Law*, chap. 2. Gardner is clear that we can do something wrong despite not being at *fault*, and we shouldn't be *blamed*: see, e.g. Gardner, "Wrongs and Faults," 61. Gardner's "justified" lines up with, on my picture, not being at fault.

⁷⁸ Enoch and Marmor, "The Case Against Moral Luck," 419; Wallace, *The View from Here*, 44; Jacobson, "Regret, Agency, and Error," 114. Simon Blackburn, who is a proponent of agent-regret, thinks that unless there is genuine doubt about whether we were at fault, agent-regret will struggle to get a grip: Blackburn, "Williams, Smith, and the Peculiarity of Piacularity," 222.

⁷⁹ Rosebury, "Moral Responsibility and 'Moral Luck,'" 512-17. For a clear discussion of this, see MacKenzie, "Agent-Regret and the Social Practice of Moral Luck," 98-99. MacKenzie notes this account doesn't allow for agent-regret to be rational if there is no possibility of wrongdoing, such as when I serve you clam chowder and it triggers an as-yet-unknown allergic reaction—yet this seems a clear case of rational agent-regret. It also may be too broad, since those who were not agentially involved might also wonder whether they showed a moral flaw. I agree with Mackenzie when she says "while agent-regret and epistemic humility might have some relationship to each other, the relationship is not so perfect as to be able to offer a full rational justification of agent-regret." MacKenzie, 99.

The reply to this challenge is that it is unpersuasive, and the fact we might doubt ourselves does not tell us much about agent-regret. Take Maddie's case. She might think she was careless. If she was careless, she might feel something like guilt, since being careless was a fault. But often we break things or damage things and do not think that we are careless. Maddie may stop to think about whether she was careless. More seriously, the lorry driver, we hope, will evaluate whether he was at fault and whether there was any other way in which he should have conducted himself to avoid this tragedy. And sometimes these agents may mistakenly believe they were at fault, or dwell on the potential that they were. But let's not overegg the point. The driver may quickly stop wondering whether he did anything wrong, since he realises he did not; and in our more mundane cases, like Maddie's case, this is even more plausible. Doubting thoughts don't tell us much about agent-regret: rather, they tell us something about basic humility. We all know that we are imperfect and can engage in self-deception. We should reflect on our possible failings. But this demand for reflection applies in many cases, and we need not think we are at fault just because we might reflect. (Sometimes we reflect on our actions even when we are successful, since we might wonder whether we could have done something differently or whether we might have been complacent.) Yes, it is especially appropriate to reflect when we do something bad. Often enough drivers who kill are reckless, so the driver should consider whether he was reckless. But his self-reflection does not show us that he thinks he was or might have been at fault; rather, he is just checking.⁸⁰ More likely, then, Maddie just thinks she broke the vase, and the driver just that he killed the child—without any associated faults.

1.4 Agent-regret's domain

This chapter had two aims. Firstly, I hope to have highlighted some basic features of agent-regret, and the ways in which it concerns our own agency. I did this by offering the traditional distinction between agent-regret and bystander regret, before introducing the idea that the external view shows that one regrets not just one's own action but *that one so acted*.

⁸⁰ David Sussman suggests that an agent who thinks he might be at fault just isn't sure whether to feel agent-regret or remorse: Sussman, "Is Agent-Regret Rational?," 790 n5.

The rest of the chapter was defensive, arguing against the idea that agent-regret is just guilt. I have not begun to explain *why* we might regret our actions. Instead, I considered several elements of agent-regret concerning fault, voluntariness, and guilt, and tried to defend Williams's basic account of agent-regret. I showed that there may be a capacious notion of guilt that does not exclude agent-regret, but that this fits with Williams's conception of agent-regret, thus disarming the challenge from survivor guilt. I suggested that the conception of guilt Williams had in mind was the guilt of the morality system, which holds that fault lies at the level of voluntary behaviour, namely at the level of one's volitions. I then argued that it is implausible to allege that Maddie or the lorry driver must have been at fault or must think that they were at fault.

What remains to be seen is *why* we might regret our actions if we were not at fault. Yes, it seems that killing someone is worse than just going for a drive; but how can *my action* be regrettable when I was not at fault? We now turn to this.

Chapter 2

Outcomes, Action, and Responsibility

...regret cannot always be held at that distance, and then it moves back to the moments of deliberation and action, and you regret acting as you did. This still need not imply that you deliberated carelessly; you may have deliberated as well as you could, but you still deeply regret that that was how the deliberation went, and that this was what you did. This is not just regret about what happened, such as a spectator might have. It is an agent's regret...
Bernard Williams¹

In 2.1 I consider a challenge that argues that to regret what we have done, we must regret our decisions, but to regret our decisions we must see those decisions as faulty. My aim in this chapter is to provide another understanding of the object of regret and to show that our decisions need not just be regretted in terms of fault. In 2.2 I introduce outcomes, results, and consequences. I consider the way in which outcomes figure in the constitution and assessment of actions. In 2.3, I provide a detailed analysis of the concept of outcome responsibility, aiming to clarify the basic concept that Tony Honore introduced, which has found an important place in much theorising about civil law. In 2.4, I return to the idea that we cannot feel agent-regret without being at fault and dismiss it because we do not just regret outcomes or decisions, rather, we regret our responsibility for outcomes.

2.1 The object challenge: Jacobson

Given that we have granted that agent-regret is conceptually distinct from guilt, we need to understand why we might regret our own actions without being at fault. The challenge we now discuss alleges that one's action can only be made lamentable in one of two

¹ Williams, *S&N*, 69-70.

ways: either one's decision was faulty, in which case guilt is appropriate, or one just regrets the outcome, in which case ordinary regret is appropriate and one does not feel agent-regret.² The concept of agent-regret carves out no space at all.

The object challenge: agent-regret cannot be a viable emotional category since fault is what makes one's own action regrettable; if one is not at fault one just feels ordinary regret.

Daniel Jacobson offers a particularly clear version of this challenge.³ Jacobson rightly points out that because ordinary regret focusses on outcomes, agent-regret cannot just be the thought that it would be better if the outcomes were different—my thoughts must involve my agency. So, Jacobson thinks that we must focus on the agent's *decision*.⁴ He thinks that we must locate the regrettable element *in the decision itself*. If the regrettable element lays in the decision, to feel agent-regret is to regret one's decision and to wish that decision had been different. But how can a decision itself be regrettable, and what does it mean to wish that one's decision had been different? Presumably, a regrettable decision is a bad decision, and one wishes that one's decision had been different because one recognises that one made that decision through faulty procedures or that the decision was an error. Thus, one's action can only be regrettable because of some fault.⁵

For Jacobson, the thought behind agent-regret is some form of narrow guilt that presupposes one was at fault *alongside* the acknowledgement that "While I regret doing what I did, I endorse doing it again in similar circumstances."⁶ This latter acknowledgement denies fault.⁷ So to feel agent-regret is to feel something like guilt and admit we were at fault, whilst simultaneously denying we were at fault. On Jacobson's

² Perhaps this could be some form of "personal regret", as I discuss in 4.3.2; but this would still not be agent-regret.

³ Jacobson, "Regret, Agency, and Error." See especially 97, 105-106, 109-115.

⁴ Jacobson, 97.

⁵ See also: "Williams's agent-regret is in any case precisely not supposed to be regret about something that the agent has done (since by hypothesis the lorry driver was not at fault in any way), but about an event or circumstance that was caused by the driver's agency." Wallace, "Replies," 434.

⁶ Jacobson, "Regret, Agency, and Error," 97. See also Jacobson, 110-15. Jacobson actually introduces a distinction between wrongdoing-involving "guilt" (Jacobson, 111.) and error-involving "regret" (Jacobson, 110-11.) but these are, for our purposes, both forms of narrow guilt.

⁷ What's more, the presence of two incompatible thoughts makes agent-regret "irrational", but Jacobson thinks it may also be admirable Jacobson, "Regret, Agency, and Error," 114-15.

position, to regret what we have done we must think—at some level—that we were at fault (or, in his terms, in error), otherwise we feel mere ordinary regret.⁸

This challenge picks up on the fact that agent-regret can't just be regret about an outcome—that would be ordinary regret. But it asks, “What does it mean to regret what you have done?” and suggests that the answer must include regret about your decisions, and that this must impute fault. To combat Jacobson's challenge, we need to see why this is wrong. Jacobson's focus on decisions makes sense; after all, decisions are a central part of normative assessment and are a central component of action. But—and here's the problem with this challenge—Jacobson doesn't just *focus* on the decision, he insulates it from what follows. Rather than just ensuring that agent-regret doesn't take the outcome as its *object*, Jacobson presupposes that the outcome can play *no role* in any assessment of, or constitution of, a decision or an action. To see why this is wrong, we need to understand the role that outcomes, and our responsibility for those outcomes, play in our actions.

2.2 Outcomes and actions

To see how we might come to regret our actions without just regretting the intrinsic quality of our decisions, we need to understand the role of outcomes, and our responsibility for those outcomes, in action. What do I mean by an outcome?

Outcomes are the states of affairs produced by an event or action.

Many things are outcomes, including a broken vase, a dead child, a goal scored, or a financial crisis (but not the fact that red is a colour). These are all things over which we might feel ordinary regret. The bystander might regret that the vase is broken or that the child died.

We have seen that agent-regret involves more than just regretting an outcome. It involves regretting that I did such a thing. (As noted at 1.2.1, I only discuss action and not omissions.) Outcomes figure in the constitution of actions, they figure in delineating

⁸ One can see this as a version of the doubts challenge from 1.3.2, or as distinct.

exactly what I have done. To see this, we should note that we can divide outcomes into two categories:⁹

The **result** of an action is an outcome that constitutes it as that action.

The **consequences** of an action are outcomes that arise because of that action but do not constitute it as that action.

The result of the driver killing the child is the dead child, a consequence of it is the driver's mental anguish, the damage to his lorry, and so on. The result of smashing the vase is the smashed vase, a consequence is the shard of china stuck in your foot.

Results are especially important in getting a grip on the ways in which outcomes can arouse agent-regret. That is because the result partly *constitutes* the action I have performed. This is a central part of how we talk about agency. In order for Niles to score a half-court shot, the ball must go through the hoop; in order for A to stab B, A must poke something pointy through B's skin; in order for A to kill B, B must die. Without the broken skin or the death, A just tries to stab or kill B. And we clearly have a way of talking about this: we distinguish, quite sharply, between murder and attempted murder.

Our actions are partly constituted by their results.

"Partly" because actions are also constituted by intentions: you can kill without *mens rea*, but you can't murder. The crucial point is that actions are not just constituted by what we intend or decide to do, but also by their results. So, the action we have performed is affected by what happens. Performing a specific action is almost always outside of our absolute control because the outcomes themselves are to an extent outside of our control (we discuss this in much more depth in chapters 4-5). As Nagel

⁹ For this distinction see Gardner, *From Personal Life to Private Law*, 58-59. And see von Wright, "III: Act and Ability from Norm and Action." Duff puts this in terms of our *description* of actions at Duff, *Intention, Agency and Criminal Liability*, 42.

puts it: “how things turn out determines what he has done.”¹⁰ This is where moral luck rears its head.

But our concern is the constitution of actions, not moral assessment. We can see that, in the terms I introduced in 1.3, an action is **voluntary**, one brings about an outcome **intentionally**, insofar as one’s action brings about an **intended** outcome; and an action is **involuntary**, or one does something **unintentionally**, insofar one’s action brings about an **unintended** outcome. The lorry driver voluntarily *drove* but involuntarily *killed*. Results alter the characterization of the driver’s *action* (and thus its voluntary nature): he involuntarily killed by bringing about the child’s death, which was not intended.

Often, we can redescribe our responsibility for an outcome as a specific action: he killed the child, she smashed the vase, you knocked over the other person.¹¹ But we cannot always find an illuminating redescription.¹² For instance, because I laid the trap you broke your leg, even though we might not want to say that I broke your leg, because “broke your leg” implies some sort of immediacy like in a football tackle or a car crash. Still, it seems that your broken leg will affect how we think about my laying the trap: laying the trap now calls to mind thoughts of your broken leg. Or take the case of *Palsgraf*.¹³ As a guard tried to push a salesman onto the train he was struggling to board the salesman dropped his package of fireworks which exploded, a scale on the platform fell and Palsgraf was injured. It seems a stretch to say that the guard performed an action like “injuring” Palsgraf as he pushed the salesman on the train. The relevant action is pushing. But we might say the guard is *responsible for* Palsgraf’s injury, and we might say that pushing the salesman made the guard responsible for her injury.¹⁴

¹⁰ Nagel, “Moral Luck,” 29–30. And see: “The terrible thing that happened to him, through no fault of his own, was that he did those things.” Williams, *S&N*, 70. See also Rosati, “Mortality, Agency, and Regret,” 237.

¹¹ See Tadros, *Criminal Responsibility*, 22.

¹² “...an outcome for which it could well seem appropriate to hold a person responsible might simply be too remote from the originating action to count, under any plausible description, as part of the action.” Perry, “Honore on Responsibility for Outcomes,” 73.

¹³ *Palsgraf v Long Island R. R. Co.*

¹⁴ Of course, the legal case was mostly about *liability*, and they were found not responsible. I discuss liability below.

We regard our actions not just in light of our intentions, nor just in terms of results, but also in terms of the consequences that arise from them.¹⁵

What's more, evaluations we make of different actions vary depending on their outcomes. We can clearly see that some events are worse than others: "the earthquake in Turkey was much worse than the earthquake in San Francisco because many more people have died in it."¹⁶ Likewise, some actions are *worse* than other actions because of their outcomes. For instance, murder is worse than attempted murder. Of course, the sense of "worse" in play, and the impact it should have on agents' lives, is partly the issue. I do not claim that this is *morally* worse, but hope to explain some ways these actions may be bad in other respects in chapter 6.¹⁷ The point here is just to get a grip on the idea that murder is to some extent worse than attempted murder. And, as the lorry driver knows full well, killing someone is worse than going for a drive; pushing someone is worse when it leads to Palsgraf's injuries.

Some actions are worse than other actions in virtue of the outcomes they lead to.

In 3.1, we will come to see that the way in which outcomes affect our assessments of actions is complicated. I have suggested here that the outcome, which we recognise as bad, makes us assess our action negatively. This is often true, but I will argue that it does not encompass all cases of agent-regret. For this chapter, we just need to see that outcomes affect what we have done, how we assess what we have done, and can make us negatively evaluate what we have done.

Before complicating this picture, we should try to get a better grip on what we have seen here: that sometimes our actions lead to various results or consequences that affect how we assess those actions. We need to understand the relationship between the agent, their action, and the outcome: this brings us to the topic of outcome responsibility.

¹⁵ Perry also sees outcome responsibility as ascribing either a result or a consequence: Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 73.

¹⁶ Enoch and Marmor, "The Case Against Moral Luck," 410.

¹⁷ What might be controversial is whether *we* should be judged depending on the badness of our actions (as opposed to, say, on the badness of our decisions). See Enoch and Marmor, 410.

2.3 Outcome Responsibility

The above has allowed us to see that outcomes are important in understanding the constitution of our actions; I now want to offer us a way of understanding this that brings in a new set of concepts concerning *responsibility*. In particular, we will focus on a concept introduced by Tony Honoré: outcome responsibility. I will develop the idea that the object of agent-regret is one's responsibility for an outcome. By drawing connections between agent-regret and outcome responsibility, we will be able to tap into a variety of rich discussions concerning the importance of outcome responsibility. A proper defence of agent-regret requires a good understanding of the relation between it, its object, and the importance of its object. By the end of chapter 3, we will have a complete picture of the emotion of agent-regret, and the underlying structures. We can then turn, in Part II, to why it is an appropriate emotion to feel. But what *is* outcome responsibility?

To start with, there are various senses of “responsible”, and various aspects of responsibility, and discussions of outcome responsibility implicate only a few.¹⁸ I will restrict our focus to responsibility for **external outcomes**; by this I mean outcomes in the external world (including in other people, and *their* mental states). But responsibility for one's own mental states introduces complications.¹⁹ Although it is possible that there are some forms of agent-regret that attach to the fact one has formed a certain mental state, such cases will be rare; and because much of the discussion of outcome responsibility concerns tort law, the literature won't shed much light on our own mental states. Relatedly, we will not be concerned with the ways in which we might be responsible for mere **attempts**.²⁰ We will also focus only on responsibility for outcomes that arise due to one's **agency**.²¹ Although I may be vicariously responsible in various ways, many of these will not involve my agency—such as when I am held responsible for

¹⁸ Hart also puts this in terms of “senses”, acknowledging that although “connexions exist between these different ideas, they are often very indirect” Hart, *Punishment and Responsibility*, 211. For an overview of a various aspects of responsibility see Fischer and Tognazzini, “The Physiognomy of Responsibility.”

¹⁹ Angela Smith admits this responsibility for attitudes is more “controversial”: Smith, “Responsibility as Answerability,” 103–4.

²⁰ On attempts, see Duff, “Criminal Attempts.”

²¹ Honoré is clear that vicarious liability is not a form of outcome responsibility Honoré, “Appreciations and Responses,” 228–29.

what my child has done, or when an insurer must pay out—and thus will not be relevant to agent-regret. We will nuance this further below.

Our agents in the cases of Maddie and the lorry driver are concerned precisely with their responsibility for *bringing something about in the world*. Given the breadth of discussions of various sorts of responsibility, it's important to keep our focus fairly narrow. The best way of shedding light on agent-regret is by focussing tightly on our responsibility for changes in the world. What does it mean to be responsible for some outcome in the world?

2.3.1 Ascribability

Outcome responsibility is the form of responsibility that *connects* an agent to an outcome *via their agency*. According to Honoré:

*“Outcome responsibility, as I conceive it, is the idea that certain outcomes of our conduct, settled according to causal criteria, are ours, even when unforeseen or unintended. We identify with them and others attribute them to us.”*²²

Stephen Perry offers similar lines of thought. He says that outcome responsibility concerns “ascribing, or attributing, outcomes to human beings, who accordingly count as authors of both the outcome and the originating action.”²³ The outcome isn't just attributed to *me*; rather, it is ascribed to me as an *agent*, or even as an *author* (see 5.1.4). The outcome is ascribed to my agency.²⁴ (I use “ascribed” and “attributed” interchangeably.)

This gives us the core of the idea

Ascribability: This outcome can be attributed/ascribed to my agency.

²² Honoré, 223.

²³ Perry, “Honoré on Responsibility for Outcomes,” 72.

²⁴ Honoré also offers some considerations that suggest outcome responsibility concerns agency; for instance, he thinks that people who are not generally capable of controlling their actions are not responsible for outcomes Honoré, “Introduction,” 9–10. He also puts this in terms of a “minimum capacity for choosing and acting”, and in terms of successful trying Honoré, “Responsibility and Luck,” 14–15. This is clearly agency-talk. See also Honoré, 17–18, 26–27, 32–39; Honoré, “Being Responsible”; Honoré, “The Morality of Tort Law,” 76–77.

In short, ascribability is one form of connection between me and an outcome, and I am connected to that outcome *by way of* my agency. For instance, we might say that the lorry driver is responsible for the death of the child *because* his actions resulted in the death of the child; the guard is responsible for Palsgraf's injury *because* his actions led to Palsgraf's injuries. I now will offer a sharper characterisation of outcome responsibility, focussing firstly on how it is a form of causation, then on how it is a form of agential causation; then I explore how it relates to other forms of responsibility. (We will come on to the idea that outcomes are *ours* and we *identify with them* in chapter 6.)

Causation

What sort of connection is involved in ascribing an outcome to an agent? I will take it that it is at least a *form* of causal responsibility: to say that outcome can be ascribed to my agency is to say that my agency (at least in part) caused that outcome.²⁵ I will not offer an analysis of causation, but will take the following idea, which we find in Hart and Honoré's *Causation in the Law* and which Honoré says his account of outcome responsibility builds on, as central to causation:²⁶ "to cause something is to intervene in the existing or expected state of the world."²⁷ Given this understanding of causation, to be outcome responsible, to have an outcome ascribed to you, you must intervene in the world. (As I noted, we can be responsible in virtue of omissions. I take it that we can expand this to say that an agent *could have* intervened or could have prevented someone else from intervening.)

I also want to draw on Hart and Honoré to delineate *when* we can be said to have caused something. In *Causation in the Law*, Hart and Honoré held that common sense

²⁵ Honoré uses causal language, seeing his inquiry into outcome responsibility as exploring "why should people be held responsible, and so under certain conditions be legally liable, for the harm they cause?" Honoré, "Introduction," 1. See also Honoré, "The Morality of Tort Law," 77n28; Honoré, "Being Responsible," 125n11. Stephen Perry sees Hart and Honoré as offering not an account of causation but "an account of responsibility" Perry, "Honoré on Responsibility for Outcomes," 70. See also Perry, "The Moral Foundations of Tort Law," 503. I suggest outcome responsibility is a *form* of causation.

²⁶ For particularly relevant passages, see Hart and Honoré, *Causation in the Law*, II.III, III.II. Honoré says he sees his work in *Responsibility and Fault* as building on *Causation in the Law*, see Honoré, "Introduction," 1; Honoré, "Are Omissions Less Culpable?," 52n19. Honoré discusses interventions throughout *Responsibility and Fault*, but see especially: Honoré, "Introduction," 2, 6; Honoré, "Are Omissions Less Culpable?," 52–53; Honoré, "Being Responsible," 122, 130, 137.

²⁷ Honoré, "Introduction," 2.

principles should underpin much of our causal theorising.²⁸ Although much of this concerns the *concept* of causation, they held that “because causal judgements are so pervasive a feature of everyday life, ordinary people learn to apply the concept of cause with reasonable accuracy.”²⁹ That is to say that an ordinary judgment, unencumbered by a philosophical account of what it means to be a cause, is likely to be a good judgment on whether or not something is a cause. Because of this, Honoré insisted that we should be content, when determining whether or not we hold someone outcome responsible, to rely upon “ordinary ideas of attribution.”³⁰

What sort of ordinary attributions did they have in mind? Hart and Honoré held that, generally, later acts by other agents tend to mean the first agent is not responsible for what follows.³¹ So, if James only goes to university because his parents fund him, his parents might be (partly) responsible for James going to university, but they are not responsible for his taking lots of drugs rather than reading lots of Hume.³² This seems to align with a fairly ordinary idea of who caused James to drop out of university.

Further, as Honoré puts it, again drawing on *Causation in the Law*, “how far back one should go in a causal inquiry depends on the purpose of the inquiry.”³³ When we ask what caused the death in a road accident, our answer will depend on whether we are concerned with a medical or a legal question—whether he was killed by internal bleeding or the other driver’s negligence.³⁴ A medical student examining a cadaver will focus on why the driver died, but probably won’t be concerned with the driver’s identity. Our causal, and our responsibility-based, judgments are pragmatic. Because our inquiries are pragmatic, we often hold certain conditions fixed, or treat them as background conditions. What we hold fixed, and the purposes of our inquiries, will depend to some degree on what we care about and are interested in. To return to the lorry driver’s case,

²⁸ Hart and Honoré, *Causation in the Law*, chap. II. See also Honoré, “Introduction,” 4–5; Honoré, “Appreciations and Responses,” 226.

²⁹ Honoré, “Introduction,” 5. Honoré offers this as a precis of *Causation in the Law*.

³⁰ Honoré, “Appreciations and Responses,” 227.

³¹ See especially Hart and Honoré, *Causation in the Law*, 70–77. Sometimes a later intervention does not wipe *A*’s responsibility; for some nuance, see Hart and Honoré, chaps. XII–XIII. See also Honoré, “Being Responsible,” 137n.43. For some further skepticism about later interventions, see Thomson, *The Realm of Rights*, 230.

³² Honoré, “Appreciations and Responses,” 227.

³³ Honoré, “Introduction,” 2. See Hart and Honoré, *Causation in the Law*, chap. III sec. II.

³⁴ Honoré, “Introduction,” 3–4. See also Honoré, “Being Responsible,” 124–25.

the child's father is likely interested in who killed his child not in the scientific facts. So, although there may be ordinary ideas of causal attributions, the causal judgments we make may differ depending on our interests (I expand this in chapter 7).

I will proceed as if these ordinary attributions are a good guide as to whether someone was a cause. This makes sense: after all, our concern is with agent-regret, which will depend on whether an agent (usually an ordinary person not a philosopher) thinks she is responsible for that outcome. And it might also matter (as we see in chapters 6 and 7) whether other people think she is responsible. But we are dealing with the causal attributions of ordinary agents, so it is plausible to offer an understanding of causation based on the attributions made by ordinary agents.

Whether one has caused an outcome, and thus whether one is outcome responsible, is settled by appeal to everyday attributions.

Notably, this sets my account apart from accounts that hold someone to be causally responsible if their action was necessary for a certain outcome to arise. Francis Hutcheson held that "the consequences which affect the morality of actions are...*all those events which otherwise would not have happened.*"³⁵ Hutcheson's point is about morality, but we can see it more broadly as a point about responsibility: you are responsible for all those events which otherwise would not have happened.³⁶ Let's call this metaphysical causal responsibility.

Metaphysical causal responsibility: whether one has caused an action is settled by whether that outcome would have arisen but for one's action.

This may have some scientific or historical uses, but it does not seem to be an ethically useful understanding of causation. To have caused something in this way is ethically *unimportant*—for instance, metaphysical causal responsibility does not affect one's

³⁵ Hutcheson, "An Enquiry into the Original of Our Ideas of Beauty and Vice (1737 - 4th Edition) (Extracts)," II.3.8. (my emphasis). We should be aware of just how many things this account holds us responsible for, because of the impact of "trivial contingencies" on the world MacIntyre, *After Virtue*, 100.

³⁶ This finds itself in some form in the "but-for" view of causation. See Zipursky, "Proximate Cause in the Law of Torts." See also Epstein, "A Theory of Strict Liability," 160–61. Note that but-for tends to be an account liability, and whether the outcome would have arisen but for one's *negligence*.

identity in the ways discussed in chapter 6—and we certainly do not think it should arouse something like agent-regret.

In this metaphysical sense, the lorry driver's mother is (at least partly) causally responsible for the child's death. But we do not think she caused the child's death, nor that she should ascribe the child's death to herself, despite the fact that she was causally necessary (because she gave birth to the driver). Why? Well, one reason we do not ascribe the outcome to her agency is that her actions aren't relevant to our concerns like "who killed the child?" or "why did the child die?" When we are considering this case, we hold the lorry driver's existence fixed, so do not inquire into his origins, which are background conditions. My point is that she is not outcome responsible because the causation involved in outcome responsibility concerns common-sense attributions. We will return to this in chapters 5 and 6.

I hope that our ordinary ideas about whether an outcome can be attributed to an agent will mostly be clear enough throughout this thesis and will help us to develop a plausible account of outcome responsibility and why this responsibility matters.

Agency

My account restricts outcome responsibility to one's responsibility as an *agent*. This is in contrast to other ways one might have an outcome ascribed to oneself as a person. In *Gone with the Wind*, Scarlett is devastated because Ashley does not love her.³⁷ We might say that Ashley is responsible for her sadness, but this is hardly down to what he has *done*.³⁸ Likewise, if the officer is thrown into a button by a wave and thus fires a torpedo that sinks the *Bismarck*, we do not ascribe this outcome to his agency.³⁹ Nor am I responsible as an agent if a scientist controls my body through electric pulses, nor if I

³⁷ For a fascinating discussion of this, from which I draw, see Carlsson, "Tragedy and Resentment (Online First)."

³⁸ Carlsson, 15. Carlsson suggests this could be a form of deep-self responsibility at Carlsson, 18–19.

³⁹ Davidson, "Agency," 54. For other contrasts between the body and agency, see Tadros, *Criminal Responsibility*, 31; Smith, "Responsibility as Answerability," 103–4; Moore, *Act and Crime*, 254.

am hypnotised,⁴⁰ nor if I have a fit.⁴¹ There are many ways we might say that a *person* is responsible, in some sense, for an outcome arising without this being a claim that they are responsible as an *agent*.⁴² (I leave open if the people in these examples are actually responsible in any sense. The point is to show some conceptual space.)

Although there may be a broader form of outcome responsibility that concerns ascribing outcomes to a person for the outcomes they (bodily, agential, or otherwise) bring about, we will focus only on ascriptions to agents. Narrowing our focus in this way is well motivated. Firstly, there will be many differences between, say, being responsible due to my body taking up space or moving itself in a certain way, and being responsible due to how I exercise my agency; we will be better placed to understand outcome responsibility if we have a narrower focus. Secondly, as explained above, I take it that the standard understanding of outcome responsibility concerns agency. Thirdly, as we saw in the introduction, Williams is clear that agent-regret tells us something about agency, focussing on agency will better illuminate this connection.⁴³

When is it the case that an outcome is ascribed to my agency? In chapter 5, I will offer a deeper defence of the following; for now, I just want to set out my position concerning the role of intentions, which we will develop in Part II. In order for something to count as agential—given our focus, for an event to count as an action—it must involve something like an intention or a decision, and this is plausible because these seem to be clearly agential features. Otherwise, it could be merely bodily responsibility. I will assume that we get the agential element if an intention is involved.

The real issue for our purposes comes when we consider at what level the intention needs to feature. Both Honoré and Williams think that if we are to describe something as an action, one must have some intention in play; but they do not think that one needs

⁴⁰ In fact, Williams has a rather niche position here. He holds that someone who is hypnotised or sleepwalking acts—although the act has a defect Williams, “Voluntary Acts and Responsible Agents,” 22–24.—and acts intentionally, although does not necessarily bring about these results intentionally, and need not be responsible; for instance, if you hypnotise me to kill someone, *I* kill them, but you are responsible for that killing Williams, “The Actus Reus of Dr. Caligari.”

⁴¹ For this list see Lucas, *Responsibility*, 7.

⁴² See also Raz, *FNTR*, 1–2.

⁴³ Williams, “Moral Luck,” 29–30.

to intend *that* outcome.⁴⁴ For instance, the driver involuntarily kills someone, and we can employ the language of action because he was trying to do something else voluntarily: he intended to get to his destination. Likewise, Donald Davidson thinks “a man is the agent of an act if what he does can be described under an aspect that makes it intentional.”⁴⁵ This gives us a good grip on matters. For instance, Davidson says that if an officer mistakenly presses a button that fires a torpedo, “then the officer sank the *Bismarck*”, but if he is thrown against it by a wave “we will not count him as the agent.”⁴⁶ In the first case we might say he mistakenly sank the *Bismarck*, we can redescribe his pushing a button as sinking the *Bismarck*. In the second case, there is no intention involved in the sinking of the *Bismarck*. His intentions do not figure in explanations of why the *Bismarck* sank; what is relevant is that the wave threw his body against the button. This is why we do not say he acted, and do not think he *did* anything. He might be involved as a body, or as a person, but he is not involved as an *agent*.⁴⁷ To employ a metaphor here, his agency was not *in play*.

Some Intended Outcome (SIO): For an outcome to be ascribed to my agency, I must have intended to bring about some outcome (I must have been doing *something* voluntarily), and I must be appropriately causally related to that outcome, but I need not have intended that outcome

If my agency is in play (I’m not asleep, I’m not hypnotised), *and* the change in the world can be explained *by* my agency being in play (the officer writing a letter isn’t relevant to his getting thrown onto the button), then the outcome can be ascribed to my agency. I take it that there is some plausibility to SIO and to the idea that there is a difference between the officer who makes a mistake and the officer who is moved by the waves, and this somehow relates to agency. I will explore this in much more depth, and defend SIO, in Part II.

⁴⁴ Honoré, “Being Responsible,” 125n.11, 129. See Williams, “Voluntary Acts and Responsible Agents,” 22–25; Williams, “Acts and Omissions,” 57n4; Williams, “The Actus Reus of Dr. Caligari,” 99–100, 103–5. Williams, at least in one discussion, takes “intentionally doing” to be “equivalent to performing an action.” Williams, “Acts and Omissions,” 57.

⁴⁵ Davidson, “Agency,” 46.

⁴⁶ Davidson, 54.

⁴⁷ Raz discusses in some depth the fact that (certain forms of) responsibility involve ascribing outcomes in the world to an agent, via their powers of rational agency Raz, *FNTR*, chaps. 12–13. See my chapter 5.

But what justifies saying that an outcome can be ascribed to my agency just because I was acting voluntarily, and intended to bring about *some* outcome? Why not say that I, as an agent, am responsible for that outcome so long as I intended to bring about *that* outcome? I now want to introduce a broad sort of account that denies SIO, and which denies the propriety of agent-regret (I nuance this in chapter 4). Instead of saying that an intention must feature, this account says that I must actually intend the outcome that arises. (Such an account might also count certain foreseen outcomes as intended.⁴⁸)

That Intended Outcome (TIO): For an outcome to be ascribed to my agency, I must have intended to bring about that outcome, and I must be appropriately causally related to that outcome.

On such an account, the connection between my agency and the outcome is both more obvious and more robust given that I intend to bring about the outcome; in such cases, the action and outcome can be seen as “expressing what the agent has in mind”.⁴⁹ This is still an account of outcome responsibility; it would say that an agent (for example, the lorry driver) is responsible for the voluntary actions he performs (driving), and for the intended results (getting to his destination), but not for his involuntary actions (killing), nor the unintended results (the dead child). There is one important nuance to add to this account, and we also need to see a few ways in which we might understand it.

Firstly, the nuance. Such an account will require more than just that I intend to bring about an outcome and it arises; for instance, I am not responsible for an outcome if I intend it and it just so happens to arise.⁵⁰ Instead, to be responsible for an outcome we need to successfully *guide* the world to that outcome via our intentions.⁵¹ What is central on this view is that one can be responsible for an outcome so long as one intends that

⁴⁸ see 5.3.1

⁴⁹ Lucas, *Responsibility*, 33.

⁵⁰ We also want to exclude cases where an agent tries to do something, or desires something, but it comes about through a deviant causal chain. See Davidson, “Freedom to Act,” 78–80; Hart and Honoré, *Causation in the Law*, 391.

⁵¹ Raz, *FNTR*, 228–30. Perry, “Responsibility for Outcomes, Risk, and the Law of Torts,” 82–85. Neither Perry nor Raz think that an account of responsibility for intended outcomes sufficiently covers the outcomes we are responsible for. See the discussion of flukes at Simon, “Deserving to Be Lucky,” 15–17.

outcome, that outcome is manifested in the world, and it is manifested *due to* one's intention bringing it about.⁵² (See chapter 5.)

Secondly, there are varieties of TIO. Instead of (or as well as) intending an outcome, the agent might think the outcome is a good thing, desire it, or express her deepest self in bringing it about. Both “attributability” and “ascribability” have their own uses in the literature concerning aretaic evaluation and whether something can be ascribed to one's *deep* or *real* self.⁵³ On such views, an outcome is ascribable or attributable to an agent when the outcome is properly related to the agent's self, when it manifests or reflects the agent's (perhaps “deep”) self.⁵⁴ (In 5.1.4 I call this “authorship”.)

Much of this literature concerns *moral* responsibility, or responsibility that is normatively couched, and it often focusses on whether we are responsible for our attitudes and actions rather than outcomes themselves; but the point translates across. We might think that the outcome is related to the agent's character, or to “deliberative, reason-tracking aspects of the agent.”⁵⁵ Attributability or ascribability in this sense forges a connection between the agent's character (either broadly construed, or as a reason-tracker) and the outcome, action, or attitude for which the agent is responsible. The important point to note here is that although this is a form of outcome responsibility, it is not the form I defend. On my account, whether this outcome is ascribable to—and reflects or manifests—my deep self, or my intentions, does not exhaust the ways in which outcomes can be ascribed to *me* and my agency.⁵⁶

Agent-regret tends to the accidental or unintended or undesired. SIO lines up nicely with our picture of agent-regret. If we aim to vindicate agent-regret (likewise, if we want to vindicate certain understandings of strict liability) then we need to be able to say that agents are responsible for outcomes that they did not intend, because there is no way

⁵² See, for instance, Wallace, *The View from Here*, 40–41.

⁵³ See Watson, “Two Faces of Responsibility,” 229. For discussion of aretaic responsibility see: Fischer and Tognazzini, “The Physiognomy of Responsibility”; Smith, “Responsibility as Answerability”; Smith, “Attributability, Answerability, and Accountability”; Shoemaker, “Attributability, Answerability, and Accountability,” 612–15.

⁵⁴ For the manifestation idea see Renzo, “Responsibility and Answerability in the Criminal Law,” 209. For reflection see Shoemaker, “Attributability, Answerability, and Accountability,” 604.

⁵⁵ Shoemaker, “Attributability, Answerability, and Accountability,” 616. Shoemaker offers the character account as his own and attributes the reason-tracking account to Angela Smith.

⁵⁶ See Fischer and Tognazzini, “The Physiognomy of Responsibility,” 382–83.

that the lorry driver intended to kill the child. Agent-regret does not arise when one acts in a way that expresses one's deeper values, or one's character, or (for unforeseen outcomes) even when one expresses what one has in mind. If we want to keep hold of the idea that agent-regret tells us something about our agency, then we need to establish a link between an agent and an outcome that does not just arise over the outcomes that the agent intended. I offer an account of responsibility that makes sense of why an agent is responsible for an outcome even if it does not reflect his intentions or his character; I offer an account of responsibility that makes sense of agent-regret. Defending this account of responsibility, which sees whether one is responsible for that outcome as detached from one's evaluation of that outcome, is one of the central problems when it comes to agent-regret (and moral luck), and I will try to defend this picture in some depth in Part II.

2.3.2 Ascribability, answerability, liability

I now want to contrast ascribability with two other notions of responsibility: liability and answerability. My aim is to demonstrate how these notions are distinct, and to suggest that ascribability is, in certain respects, more fundamental than any of them. In doing this, we will come to a fuller understanding of what it means to be responsible for an outcome and can proceed to a discussion of its relationship with agent-regret whilst hopefully avoiding any pitfalls that might arise if we do not have these concepts properly lined up.

Liability

One centrally important aspect of many discussions of responsibility—especially in the literature on tort law that carries many of the discussions of outcome responsibility—is liability, and the question of when one should have to bear the burden of the costs imposed by one's actions.

Liability: One rightly faces a burden.

The rough idea is just that it would not be wrong for another to force one to bear this burden;⁵⁷ or perhaps one has forfeited one's right not to face that burden.⁵⁸ We can keep our understanding of this ecumenical.

Now, one can be liable without having brought about any outcome oneself. For instance, we can be liable to pay tax.⁵⁹ We also find this in the vicarious liability of employer liability,⁶⁰ or when parents are liable to pay for the stuff their children smashed in the shop.⁶¹ Yet we can also offer a more restricted form of liability: the liability for having done something. On such an account, we have to bear burdens in virtue of bringing about some outcome.⁶² And we might have to bear these burdens despite not being at fault—this underpins much of strict liability.⁶³ Consider this in terms of fault as discussed so far: I may have broken the window and performed a bad action, but I was not at fault in playing cricket on that pitch or hitting the ball as I did. My conduct was unimpeachable. But fault can be absent and one can still face liability in virtue of bringing about some outcome: I must fix the window.

This is clearly distinct from ascribability. For one, we do not impose liability for everything we do.⁶⁴ I walked to the corner; that brings no benefits nor costs. Still, we can ascribe the fact that I am at the corner to my walking there. Nor do we impose liability for everything we do that affects other people: when I get the job and you lose out, I am

⁵⁷ Tadros, "Duty and Liability," 262–63.

⁵⁸ McMahan, *Killing in War*, 10.

⁵⁹ Raz, *FNTR*, 256.

⁶⁰ See Hart, *Punishment and Responsibility*, 215–16; Hart and Honore, *Causation in the Law*, 63–66.

⁶¹ One might ground vicarious responsibility in my actions, and the idea that I should, say, ensure that my kids don't break anything. For discussion, see Gardner, "The Negligence Standard," 5.

⁶² Gardner, "The Mark of Responsibility," 177. See also Gardner, "Hart and Feinberg on Responsibility," 132–33.

⁶³ "Honore, "Introduction," 9; Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 91.

⁶⁴ Sometimes it seems like Honore equates outcome responsibility with liability for outcomes, such as when he brings in "credit" and "discredit" Honore, "Responsibility and Luck," 14. See also Honore, 25–28; Honore, "Being Responsible," 130–31. So, it looks like this is a theory of liability, where credit and discredit are the benefits and burdens. Stephen Perry thinks we can clearly be responsible without credit applying; Perry, "The Moral Foundations of Tort Law," 491. See also Perry, "Honore on Responsibility for Outcomes," 66. Further, Honore acknowledges we can be outcome responsible even if nobody else knows what we have done: See Honore, "Being Responsible," 132. Credit and Discredit seem to be a red herring; I do think my position is at odds with the central aspects of Honore's picture.

But Duff and Raz both suggest that Honore sees the credits from outcome responsibility, and the impact on our identity, as argument for the *existence* of outcome responsibility Duff, *Answering for Crime*, 2009, 75n50; Raz, *FNTR*, 264–65. The beneficial effects of outcome responsibility might suggest it is good that we are outcome responsible, but it will not show that we *are* responsible—and I do not think that this is Honore's point.

(partly) responsible for your sadness but, barring special circumstances, I incur no liability towards you. That is because some domains of action justify the imposition of harms on others.⁶⁵ Even outside of these domains, I am clearly not liable for everything I have caused because sometimes, even if blame or burdens might be lurking, I can offer a defence.⁶⁶ As Honoré puts it, “People are never legally liable *merely* because they have caused someone harm.”⁶⁷ Still, we can say that they did indeed cause this harm: that is the work that ascribability does. So, ascribability is distinct from liability.

Answerability

Another form of responsibility also raises its head. Prior to any burdens being imposed, except in cases of strict liability, we usually have a chance to answer for bringing about that outcome. We are given a chance to offer an excuse or a justification, and only if we fail here are we held liable.

Answerability: One can rightly be made to explain why some outcome arose.⁶⁸

When one is answerable it is incumbent upon one to give an intelligible account of some particular action, decision, or (what we are concerned with) outcome.⁶⁹ What’s more, we expect that the agent will not just (say, scientifically) *explain* what she has done.⁷⁰ Rather, she will either show she has not violated any norm, or she will justify or excuse her action, or apologise. If she fails to give an adequate explanation, she will likely face associated burdens.⁷¹ But sometimes we are liable without being answerable, such as when we are strictly liable and any answer we can offer is irrelevant to our liability. Other

⁶⁵ Honoré, “The Morality of Tort Law,” 78; Duff, *Answering for Crime*, 2009, 70.

⁶⁶ Duff, *Answering for Crime*, 2009, 16; Duff, “Responsibility and Liability in Criminal Law,” 103; Honoré, “The Morality of Tort Law,” 75–78.

⁶⁷ Honoré, “Introduction,” 7. See also Honoré, “Responsibility and Luck,” 27–28; Honoré, “The Morality of Tort Law,” 81–91.

⁶⁸ Answerability concerns the fact one can be called the answer, not the quality of one’s answer: Tadros, *Criminal Responsibility*, 25.

⁶⁹ This is an “exercise” of one’s basic responsibility, Gardner, “Relations of Responsibility,” 87. Basic responsibility is the *ability* to proffer explanations, to answer for oneself: see Gardner, “The Mark of Responsibility,” 179–82. and Gardner, 179–82; Gardner, “Reply to Critics,” 277; Gardner, “Hart and Feinberg on Responsibility”; Gardner, “Relations of Responsibility,” 87–88; Gardner, “The Negligence Standard,” 7–11. This ability is an important part of being a person, but is independent from whether one is responsible for an outcome, as I discuss below.

⁷⁰ Tadros, *Criminal Responsibility*, 28–29.

⁷¹ Liability and answerability share several important connections. See Gardner, “The Mark of Responsibility,” 191–92; Smith, “Responsibility as Answerability,” 103.

times we are answerable yet not liable, such as when we give an acceptable justification or excuse.⁷²

How does answerability relate to ascribability? We might think that as rational agents we are, *in principle*, answerable for everything we do, and for all the outcomes we bring about; or we might hold that we are answerable only if there is some specific person who can demand an answer.⁷³ It is clear that sometimes we are not actually answerable to certain people. In the criminal law, for instance, there are blocks, like diplomatic immunity or a statute of limitations, on being held answerable.⁷⁴ We certainly are not always answerable to our peers, either; for instance, no one may have the standing to confront me. If we are answerable only if there is someone who can hold us answerable, then ascribability is clearly distinct from answerability: I can be said to have done something, even if there is no one who can ask me why I did it and thus even if I am not answerable.

What if we are answerable for every outcome we bring about because we are answerable if we are in principle answerable? Even if this is the case, answerability is conceptually distinct from ascribability. Answerability concerns a demand for explanation and the purpose of such demands will be central to how and why we hold someone answerable, and our responses to this. Ascribability is different. It establishes the connection between the agent and the outcome that underpins the demand for explanation—to be answerable for bringing about an outcome, I must have brought about that outcome—it does not

⁷² Strict answerability also exists: we must give an answer whether or not fault is imputed, but we are let off the liability hook if our answer is appropriate: see Duff, “Responsibility and Liability in Criminal Law,” 113–15; Duff, *Answering for Crime*, 2009, chap. 10.

⁷³ Gardner and Angela Smith think that answerability in general does not require that there is a particular person to hold us to account: Gardner, “The Mark of Responsibility”; Gardner, “Reply to Critics,” sec. 8; Gardner, “Relations of Responsibility”; Smith, “Responsibility as Answerability.” Others think that accountability does require a particular person to hold us to account: Duff, “Answering for Crime,” 2006; Duff, “Responsibility and Liability in Criminal Law”; Duff, *Answering for Crime*, 2009, chap. 1; Watson, “Two Faces of Responsibility,” 231, 235.

For discussion see Renzo, “Responsibility and Answerability in the Criminal Law”; Fischer and Tognazzini, “The Physiognomy of Responsibility,” 390–94. For Gardner’s views on his debate with Duff, see Gardner, “Relations of Responsibility.”

⁷⁴ Duff, “Responsibility and Liability in Criminal Law,” 107–10; Duff, *Answering for Crime*, 2009, 179–91.

itself imply that any explanation is required. I can be judged to have done something without questions of holding me to account arising.⁷⁵

This is important. Ascribability lets us answer the fundamental question of whether the agent “even performed the action in question.”⁷⁶ More broadly, ascribability lets us say the agent is “appropriately related” to the outcome.⁷⁷ If the outcome cannot be in some way ascribed to me (or a plausible case for this made), then it cannot be incumbent upon me to explain *why I brought it about*; in such a situation my response would be closer to a denial of an offence than a defence: I can rightly refuse to say any more with “It’s not up to me to explain, because I didn’t do it.” Likewise in the law, as Antony Duff points out, “the defendant has nothing *for* which she must formally answer unless and until the prosecution proves beyond reasonable doubt that she committed the offence charged.”⁷⁸ As Duff notes, not only must they prove that I acted with *mens rea*, but also they need to prove that I *did it*, that the outcome can actually be ascribed to my agency.⁷⁹ If you can’t show that I did it, then you may still hold me answerable or liable in virtue of my being connected to the outcome in some other way—such as the fact it was my child who broke the vase—but you can’t hold me responsible *for performing that action* or *bringing about that outcome* unless you can say that I brought about that outcome.⁸⁰ Thus ascribability plays a fundamental role in holding others and ourselves answerable and responsible. As Victor Tadros puts it, in a slightly different context:

*“Despite the intimacy of the relationship between responsibility and our social and emotional practices, however, those practices invite us to provide a further account of something more basic: what it is that we are responsible for. For they invite us to ask what it is that we can properly be called to account for, or that we react to in the significant sense.”*⁸¹

⁷⁵ Honoré, although it isn’t clear that he endorses this, suggests answerability is a “corollary” of causing the outcome: Honoré, “Being Responsible,” 125n.11. I take it that they are conceptually distinct, even if answerability is a corollary of ascribability.

⁷⁶ Fischer and Tognazzini, “The Physiognomy of Responsibility,” 382.

⁷⁷ Tadros, *Criminal Responsibility*, 22.

⁷⁸ Duff, “Responsibility and Liability in Criminal Law,” 110. See also Duff, *Answering for Crime*, 2009, 195.

⁷⁹ See also Duff, *Answering for Crime*, 2009, 198.

⁸⁰ See also Raz, *FNTR*, 256.

⁸¹ Tadros, *Criminal Responsibility*, 25. See also Tadros, chap. 6. Note that Tadros offers a very different account of *what it is* that the agent must answer for, tying in our values much more tightly (see also the

Ascribability does not directly concern whether one must offer an explanation or bear burdens; rather, it seeks to answer the question of whether one can properly be said to have brought about that outcome in the first place. Outcome responsibility as ascribability *underpins* answerability and liability *for what we have done*, by providing the connection between an agent and an outcome.⁸² He is liable for the disaster “*because* he caused the disaster”.⁸³ To say that he caused the disaster is to connect him to the disaster, and we do this in this case by ascribing the outcome (the disaster) to his agency. That is the important role that outcome responsibility fulfils.

In this sense, ascribability is prior to both liability and answerability. Duff, discussing criminal and moral responsibility, says that “liability presupposes responsibility,” where this responsibility is answerability.⁸⁴ That’s true (at least in the criminal and moral worlds, where liability is for voluntary actions); I add that answerability (at least in the criminal and moral words) itself presupposes ascribability. Yet we can be answerable or liable for things we haven’t done, when we look outside of the criminal and the moral.⁸⁵ So, we shouldn’t think, as Honoré sometimes suggests, that outcome responsibility is *simply* more fundamental than answerability or liability.⁸⁶ Rather, outcome responsibility (as ascribability) is prior to *certain forms* of answerability or liability.⁸⁷ To be answerable or liable for bringing about certain outcomes, we need to first have those outcomes ascribed to us.

I hope that by now we can see that ascribability is distinct from answerability and liability; ascribability underpins important species of liability and answerability that concern our actions and the outcomes we have brought about; insofar as it performs this role,

rest of Tadros, chap. 1.) Still, there is a more basic question that we must answer concerning what it is that grounds this liability or answerability.

⁸² Hart and Honoré see “statements that a person caused harm as one sort of non-tautologous ground or reason for saying that he is responsible [i.e. liable or answerable].” Hart and Honoré, *Causation in the Law*, 66.

⁸³ Hart, *Punishment and Responsibility*, 214.

⁸⁴ Duff, “Answering for Crime,” 2006, 87; Duff, “Responsibility and Liability in Criminal Law,” 103. See also Duff, *Answering for Crime*, 2009, 15–16, chap.1.

⁸⁵ Duff restricts his claims about priority to moral and criminal liability, Duff, *Answering for Crime*, 2009, 19.

⁸⁶ Honoré claims that outcome responsibility is more fundamental than moral or legal responsibility, both of which seem to involve liability and answerability. Honoré, “Responsibility and Luck,” 27, 40; Honoré, “Being Responsible,” 125.

⁸⁷ It might be prior in some more complicated way, such as if liability and answerability for what we have done is the *core* case out of which all other forms of liability and answerability must be built.

ascribability is important. It's especially important because if we want to blame people, or demand that they explain themselves, not just for intending to kill someone, but for actually killing them—if we want to establish a distinction between murder and attempted murder⁸⁸—then we need to be able to say that we can blame someone not just for their intentions (since the intentions of the person who fires and misses are the same as the person who fires) but for being responsible for outcomes. So, outcome responsibility as ascribability clearly plays an important role in much ethical thinking; but this hasn't got much to do with agent-regret. In Part II, I will argue that it plays far more important roles than just allowing us to blame people for outcomes: it underpins our status as persons and affects our identities.

2.4 Outcome responsibility and agent-regret

The discussion so far helps us to see that outcome responsibility concerns ascribability. To be outcome responsible is to be connected to an outcome as a causal agent of that outcome. I have not offered a full account of *when* we can ascribe such outcomes but did suggest SIO was plausible. We turn to this in more depth in Part II. In the rest of this chapter, I want to briefly explore the relationship between outcome responsibility and agent-regret and will suggest that outcome responsibility is the *object* of agent-regret. We will return to Jacobson's challenge and see how this picture helps us defuse it, and then in chapter 3 we will complete this picture of the nature of agent-regret.

In 2.2 we saw that outcomes affect how we assess our actions. When they are results, outcomes can affect what action one has performed; when they are consequences, outcomes can also affect the light in which an action is assessed. In 2.3 I offered a way of understanding this: our actions leave us responsible for certain outcomes; outcomes can be ascribed to us, specifically they can be ascribed to our agency. In such cases, we are responsible due to what we have done.

Outcome responsibility is not primarily about the costs we face or the demands for answers we might face, although it links us to outcomes in a way that might underpin such questions or such burdens. And, as we saw in 2.3.1, this account of when we are

⁸⁸ Cf. Ashworth, "Taking the Consequences." For an interesting approach see Edwards and Simester, "Crime, Blameworthiness, and Outcomes."

responsible is not restricted to ascribing outcomes to our deep selves or our intentional impacts on the world. Rather it is about the fundamental question of whether an outcome can be ascribed to an agent at all. What matters when it comes to outcome responsibility is whether my agency can be connected to an outcome. And this is what drives the thoughts we experience in agent-regret. Maddie and the lorry driver are both concerned by the fact that they have done something lamentable; and although in both of these cases answerability and liability are close by, these are based on the fact that such an outcome can be ascribed to these agents. Although both might think “How can I make sense of this? How can I explain it to others? How can I make up for it?”—with these being harder questions for the driver—their thoughts turn more tightly around the fact that they, and their actions, are why such an outcome arose.

We can assess our agency not just in light of the intrinsic features of our decisions—the intentions that mean our agency is in play—but in light of the outcomes for which we are left responsible by exercising our agency.⁸⁹ The driver regrets that fact that this death can be ascribed to *him*, he regrets killing the child, and he regrets going on a drive. However we put it, the point is that the driver regrets his responsibility for that outcome.⁹⁰ Likewise, the guard in *Palsgraf* might regret pushing the salesman, and he regrets this because it makes him responsible for Palsgraf’s injury. What is consistent across these cases, whether they involve results or consequences, is that our responsibility for an outcome explains our regret; it explains why pushing, which can otherwise be innocuous, is regrettable, because the pushing led to the injury. Further, this responsibility arises due to more than just the intrinsic features of our decisions and need not just attach to faulty behaviour.

My suggestion is thus that the object of one’s regret is not one’s decision or intention, nor is it merely the outcome that arose; rather, it is one’s *responsibility* for that outcome. We can model the object of agent-regret in terms of outcome responsibility:

⁸⁹ See also Tannenbaum, “Emotional Expressions of Moral Value,” 53–54. Tannenbaum focusses on how we succeed or fail in the execution of our intentions; we’ll return to this at 5.1.3

⁹⁰ Geoffrey Scarre notes that an agent might find several objects of regret: Scarre, “The ‘Constitutive Thought’ of Regret,” 570–71. My point is that these all will relate to the agent’s responsibility for an outcome.

Agent-regret laments my responsibility for an outcome.

Contrast this with

Agent-regret laments that *I did such a thing*.

Both of these are distinct from taking an external view (compare regretting an instance of responsibility that happens to be my responsibility, with regretting my responsibility for an outcome). Focussing on outcome responsibility has a few benefits. One benefit is that one's responsibility for an outcome is broader than what actions one has performed. Although I will not discuss omissions and other cases that might not be described as actions, an account of agent-regret should be able to expand to account for them, and construing agent-regret in terms of outcome responsibility better allows for that. Another benefit is that lamenting that I did such a thing, or lamenting my action, does not make clear *what* about my action it is that I regret; for instance, it could be that the decision was intrinsically bad. By focussing on our responsibility for an outcome, we can still say that we regret an action or an exercise of our agency, it's just that the element that drives that regret is made clear: we regret these actions or exercises of agency *because* they make us responsible for such outcomes (regardless of whether we find fault in our decisions). Further, we make outcome responsibility central, and much of the discussion of Part II, which I hope will vindicate agent-regret, relies upon discussions of outcome responsibility and its importance. Finally, this helps us draw more clearly the links between Bernard Williams's work and Tony Honore's, which should hopefully illuminate Honore's work in terms of our emotions, and place Williams's more firmly within the philosophy of law.

Let's return to Jacobson and the object challenge. Jacobson holds that the thought behind agent-regret is some form of guilt (that involves fault) alongside the (contradictory) acknowledgement that "While I regret doing what I did, I endorse doing it again in similar circumstances."⁹¹ But what Jacobson has in mind only concerns one's *decision*, considered by itself. On my picture, we can put things differently without any such clash. Instead we say: "While I regret doing what I did, I endorse *deciding that way*

⁹¹ Jacobson, "Regret, Agency, and Error," 97.

in similar circumstances.” I can still regret doing what I *did*—I can regret performing that action—without holding my decision to have been in error or at fault. The assessment of a decision in itself turns around its intrinsic qualities (I am sympathetic to the view that moral judgment is based on the quality of our intentions, but I will not explore that). But an action is made of more than just a decision, it can be made of a result, too; and our actions can also be significant in terms of their consequences. It is the fact I am responsible for your broken leg that I regret, but this does not mean I have made any sort of error in my decision that needs to be renounced, and I can fully endorse deciding that way. Jacobson goes wrong in concluding that agent-regret, if it is to apply to one’s own actions, must take as its object one’s decision assessed only in terms of its intrinsic features, and that this is the only way we can assess our actions. Instead, we should recognise that our actions can be made good or bad in light of what follows.

Still, we can make sense of the quote with which I opened this chapter. The deliberation is bad insofar as it led to that outcome; it is bad insofar as it was part of that action. It is not bad in and of itself—you need not have been careless, you could have deliberated as well as you could—it is not bad in a fault-involving way. Regretting one’s own action, even regretting one’s own decision, does not mean that one was at fault. It just means that one recognises the place that this decision had in something lamentable.

By introducing the concept of outcome responsibility, we introduce the possibility that we can regret an action without assuming that there is some fault at the level of the decision. It is my responsibility for the outcome, not something bad in me or my decisions, that I regret. Yet I do not just regret the outcome itself; rather, I regret the exercise of agency that left *me* responsible, as an agent, for that outcome. The driver only meant to go for a drive but driving turned into killing. The decision turned out badly, and the action was regrettable, only because it left the driver responsible for the death of the child.

Now that we have seen why an agent might regret their action without being at fault—because it leaves them responsible for some outcome—we are well placed to offer a fuller understanding of the nature of agent-regret. We turn to this in chapter 3.

Chapter 3

Outcome Responsibility and Agent-Regret

In this chapter, I further explore how outcome responsibility relates to, and illuminates, agent-regret. In chapter 2, I suggested that the lorry driver was responsible for the child's death (I defend this in greater depth in Part II), and *this responsibility* is worse than, say, responsibility for the child's broken leg. In such a case, it seems like this responsibility is worse because the outcome is worse. In 3.1, I develop the idea that we can feel agent-regret despite not regretting an outcome itself. Although in many cases we do regret our responsibility for an outcome because we regret the outcome itself, there is no necessary relationship between our assessment of an outcome and our assessment of our responsibility. In 3.2, I apply our picture of outcome responsibility to agent-regret aroused by foreseen outcomes. In 3.3, I conclude this part by setting out my account of agent-regret and distinguishing it from accounts offered by several other philosophers. By the end of Part I, we should have a proper grasp on the nature of agent-regret and how it differs from guilt and ordinary regret; we should also have a good understanding of the object of agent-regret: that one was responsible for an outcome. In Part II, I turn to *defending* our propensity for agent-regret.

3.1 Outcomes and evaluations: pure agent-regret

I have suggested that we can understand the object of agent-regret in terms of outcome responsibility: someone who feels agent-regret regrets their responsibility for an outcome. This was based on a point—about how we conceive of actions and our responsibility for outcomes—that is independent of any claims about how we evaluate our responsibility; we could think that the constitution of actions changed depending on results without those actions being better or worse for it. Given that I have put forward

our responsibility for an outcome as the object of agent-regret, it is clear that we need to be able to evaluate this responsibility *negatively* if it can indeed be the object of agent-regret. So, we need to understand the evaluation of our responsibility. It was easy to see, following the analogy of the earthquake case, that certain results plausibly make our actions better or worse.

One way of incorporating the role of outcomes into an analysis of agent-regret is to note that agent-regret often involves *regretting the outcome* of one's action. The agent sees the outcome as a bad thing independently of her involvement. Were the lorry driver just a bystander then we imagine he would feel ordinary regret. The lorry driver doesn't just regret that he killed the child, he *also* regrets that the child died. Much as the earthquake is made bad, or made worse, by the death-toll, the driver's action is made bad by the death of the child. On this approach, the lorry driver sees the child's death as a bad thing, and *thus* he comes to regret that he killed the child, or *thus* he comes to regret his responsibility for the child's death. John Gardner thinks that agent-regret is a compound of ordinary regret about a state of affairs and the thought that I am responsible for the regretted state of affairs:

"[W]hat Williams regards as the distinct emotion of agent-regret is instead a combination of two separate, but interacting, experiences. One is ordinary, vanilla regret. The other is the thought of one's own responsibility for what is regretted. I regret the injury to the child who ran out in front of my lorry, and on top of that I hold myself to have been responsible for it. Then, naturally enough, I also regret the fact of my responsibility. My pained thoughts include not just 'if only the lad hadn't run out' but also 'if only I had gone for a different route this morning' (or a smaller truck, earlier start, etc.)."

On Gardner's picture, we regret the outcome, realise we are responsible for it, and that regret transmits from the outcome to become regret about one's responsibility for that action.

Gardner's picture is a paradigmatic version of what we might call the standard picture of agent-regret.

¹ Gardner, *From Personal Life to Private Law*, 139.

The Standard Picture: The agent assesses the outcome as bad, recognises her responsibility for the outcome, and thus sees her responsibility as bad.²

This is not a point about how we conceive of actions but about how we *assess* them. Not only does the outcome affect the ways in which we conceive of and understand an action, it gives the action, and our responsibility for that action, its evaluative character—when it comes to agent-regret, the outcome renders one’s responsibility lamentable.

The standard picture says that I lament that I did such a thing (or that I was responsible for this or that) *because* I lament the results or consequences of that action (see further 7.2). I make no dispute that “naturally enough” we often jump from the badness of an outcome to the badness of our responsibility for it. The standard picture offers a plausible *evaluative explanation* of many cases of agent-regret. It offers a plausible explanation of what makes the agent evaluate their action as a bad thing, as something that is regrettable. Yet the standard picture builds this evaluative explanation into the *nature* of agent-regret. It says that to feel agent-regret is to see one’s action as bad *because* one sees the outcome as bad.

But the evaluation offered on the standard approach does not apply to all cases of agent-regret, so the standard picture—according to which the nature of agent-regret is such that it *necessarily* involves regretting the outcome of one’s action—fails as an account of agent-regret. A proper account of agent-regret allows room for *other* explanations of why we assess our actions, or our responsibility for outcomes, as bad things. This is because one can feel agent-regret without feeling any regret over what has happened.³ I don’t just mean that one can think that what has happened is the best outcome one could have

² This view seems to be presupposed in much of the literature. Take the following example, from Susan Wolf: “The emotional response to beliefs about the badness of the effects of one’s actions is what Bernard Williams labeled ‘agent-regret.’” Wolf, “The Moral of Moral Luck,” 16. Connie Rosati cashes out agent-regret in terms of “a person’s regret about her contribution to an undesirable event or state of affairs” Rosati, “Mortality, Agency, and Regret,” 232. See also Wallace, “Replies,” 434. Or take the following, couched in Carla Bagnoli’s own way but where the outcome (albeit the outcome that did not arise) drives the assessment of our responsibility: “agent-regret concerns what *for the agent* is a valuable alternative, even though she did not or could not choose it.” Bagnoli, “Value in the Guise of Regret,” 177.

³ As far as I can tell, only Amélie Rorty notes this: “Characteristically, the agent regrets his action because he regrets the state of affairs to which it has contributed. But it is possible for a person to regret *his* having brought about *E*, without regretting *E*. (He may, for instance, think it is important for someone else to enjoy the satisfaction of having brought about *E*.)” Rorty, “Agent Regret,” 490. See also 494-495 This quote nicely captures what I will now expound.

hoped for, as in cases of foreseen outcomes; rather, one can feel agent-regret over doing something that, in terms of its effects, isn't just better than some other awful outcome, but is *good*, and one evaluates that outcome as good. This is what I will call the pure picture of agent-regret.

I take it that the pure picture of agent-regret is novel. The standard picture does indeed seem to be the standard picture. But it is important to note that my primary concern in this thesis is to explore how agent-regret tells us something about our agency, and what it means to be an agent. Most of Part II will involve trying to defend the idea that agents are responsible for outcomes that are outside of their control, and that this matters. And most of this will be discussed in light of the standard examples of agent-regret that I introduced in the introduction, all of which are amenable to the explanation offered by the standard picture. Still, I take it that the pure picture is the right picture, and by the end of this thesis, I hope that my analysis of agent-regret as pure agent-regret is plausible, and that we will be able to better recognise the holes in the standard picture: sometimes one's regret cannot be explained by looking at the badness of the outcomes of one's action, rather there are other features that explain why one might think one's action was bad. Even though I will not go into depth on the pure picture, I clearly need to say a little more in sketching the pure picture if it is to be plausible. What sort of evaluative explanations—explanations of why one might regret one's responsibility for an outcome without regretting the outcome itself—do I have in mind?

Firstly, *who* performs an action can be important. As Williams made vividly clear in his *Critique of Utilitarianism*, there's something important—not least to Jim—about whether it is Pedro or Jim who kills the villager(s).⁴ In this situation Jim does regret the outcome, and he surely does see his killing the villager as a bad thing because he, whom we assume to be a reasonably compassionate pacifist, respects the life of the villagers. Yet surely Williams point was not just that it can matter who does a *bad thing*; rather, it can matter who *does* anything. (Relatedly, as I will discuss at 6.3.2, it might matter to the meaningfulness of my life that I complete a certain task, regardless of the good that arises if you complete it.)

⁴ See Williams's discussion of Jim, and George, in Williams, "A Critique of Utilitarianism," secs. 3–6.

For a further example, take a case that Amélie Oksenberg Rorty offers. A mother is building a table with her young daughter to encourage her daughter's confidence in her manual abilities; the mother, absentmindedly, hammers in the final nail and immediately regrets doing so because she realises that by finishing the table she stopped her daughter from completing the project *herself*.⁵ Rorty thinks the mother will feel agent-regret. I might not agree: I think the mother might have been careless and guilt might be more appropriate. But the point of this example doesn't concern agent-regret: rather, the lesson I want to draw from this case is that it can matter not just what things are done, not just what outcomes arise, but that a particular person does them or is responsible for them: in this case, it matters because only by hammering in the final nail will her daughter *achieve* finishing the table. We don't need to appeal to Williams's Jim-in-the-jungle cases to see the fairly obvious truth that *who* does something matters.

Finally, take a different sort of case: revenge. Shylock might be wryly amused were Antonio to lose a pound of flesh; he might even be satisfied to some extent were someone else to cut it from Antonio; but for full satisfaction Shylock must cut the flesh himself.⁶ Or take the example of Inigo Montoya in *The Princess Bride*.⁷ For half his life he has been waiting to say to his father's killer: "Hello. My name is Inigo Montoya. You killed my father. Prepare to die." Montoya would *not* be content to learn that his father's killer has died or been killed. Montoya doesn't want him *dead*, he wants to *kill* him. Revenge seems to be achieved—at least in many cases—only if *I* do it. It's not just that an outcome is realised, nor that someone acts to realise that outcome, it matters that *I* realise it. Montoya might regret his father's killer's death at someone else's hands, but relishes killing him himself. What we *do*, and *that we do it*, can matter to us independently of the outcome.

We will discuss the relationship between outcome responsibility and evaluative explanations in far more depth when we discuss the ways in which outcome responsibility affects our identities in chapter 6. For now, let's see how the possibility of this sort of evaluative explanation affects agent-regret. One might regret being *involved*

⁵ Rorty, "Agent Regret," 489.

⁶ See the discussion in Miller, *Eye for an Eye*, chap. 6.

⁷ Reiner, *The Princess Bride*.

in bringing about some outcome without regretting the outcome or whilst positively welcoming it. That is to say, I might regret my responsibility for an outcome without regretting the outcome itself. I will illustrate this with two cases, both of which involve deaths, and both of which bring out that it is not always the outcome that one regrets. It is important to bear in mind that in both of these cases what matters is the agent's own perspective, because what matters in agent-regret is the agent's own assessment. So, we should not impute moralistic attitudes towards deaths and executions and should grant that some people think the deaths of certain people are thoroughly good things that might arouse in them no semblance of regret in and of themselves.

Here is the first case:

The rifleman in a firing squad welcomes the convict's execution, but he regrets that he fired a fatal bullet—he regrets that he killed the convict.

The rifleman does not regret that the convict was killed by a firing squad; he believes this convict deserves to die at the hands of the state. He does not see either the outcome itself, nor the actions that led to it, as regrettable. Rather, what he regrets is that *he* killed the convict.⁸

One might think this case is psychologically implausible. But it helps to make sense of a real-world practice: the dummy bullet.⁹ Firing squads often have one bullet loaded with a blank, and the members of the squad know this. Thus, riflemen can either know or deceive themselves into thinking that they did not fire a fatal bullet. They can absolve themselves of responsibility (which is itself already partly achieved by the diffusion of responsibility achieved by there being several members of the squad). The practice of providing a dummy bullet doesn't make sense if what the members of the firing squad might regret is either the *death* or the *execution* of the convict. Including a blank makes sense only if they might regret their own responsibility: they regret having so acted, they regret killing the convict. Now you might think that the rifleman is suffering some

⁸ To get around any issues about why he was in the squad, we can imagine that he was chosen to be in it by a lottery, and thinks the lottery is a fair method.

⁹ "Firing Squad"; Westcott, "How and Why Gardner Was Shot."

recalcitrant form of guilt. Perhaps.¹⁰ But it also strikes me that the rifleman might regret his killing of the convict.

The following case is even clearer. It takes the basic structure of the lorry driver's case and makes the outcome something that, plausibly, our agent would not regret. If you accept the basic cases of agent-regret, and are an advocate of the standard picture, this should persuade you that the evaluative story is more complicated than as presented on the standard picture. As a starting point, think about the celebrations amongst some people following Margaret Thatcher's death.¹¹ Or take Bob Dylan's attitude towards warmongers in his "Masters of War": "*And I hope that you die/And your death'll come soon/ I will follow your casket/ In the pale afternoon/And I'll watch while you're lowered/Down to your deathbed/And I'll stand o'er your grave/'Til I'm sure that you're dead*"¹² It should be clear that sometimes we do not regret, we actively welcome, the deaths of certain people. Nor do we have any reason to suppose that these contented folks would be any less glad they to discover that, say, Thatcher or a warmonger was killed by some accident; perhaps they were hit by a lorry. They might even take a laudatory attitude towards the driver, seeing him as some sort of inadvertent hero. They need not feel regret just because an action brings about the death.

Yet we might imagine that were Bob Dylan our lorry driver and were he to run over not a child but that very warmonger whom he detests, Dylan would (or at least *could*) be wracked with agent-regret. The fact his own action brings about the death quite plausibly changes how he feels, because it introduces his own responsibility for that outcome.

The hateful driver detests a particular individual. He has regularly, and ingenuously, wished death upon this person. He then, accidentally, runs this person over. The lorry driver regrets killing the victim.

This combines two recognisable phenomena: that sometimes we (at least some of us) are glad that certain hateful people are dead, and that we (at least some of us) are averse

¹⁰ The case does not turn around his involvement in the death revealing to him that he (actually) opposes capital punishment and so regrets the result or even feels guilt. Still, sometimes agent-regret is revelatory and tells us about our values: see White, "Revelatory Regret and the Standpoint of the Agent."

¹¹ Neild, "Margaret Thatcher's Death Greeted with Street Parties in Brixton and Glasgow."

¹² Dylan, *Masters of War*.

to killing people. What the rifleman and the hateful driver show us is that we can feel agent-regret despite not regretting the outcome itself. Were we, say, to drug either character so that he forgot his role, and then tell him that, respectively, the convict had been executed or the warmonger killed, he would feel no regret; were they bystanders, neither would feel ordinary regret; were either character able to express his judgments of value, he could still honestly say he does not regard the death itself as a bad thing. The outcome does play a role insofar as we often take account of outcomes when we assess actions, and when it is a result it constitutes the action as this action, but the outcome *need not* be evaluatively linked to one's evaluation of one's action. To these characters, the outcome itself does not *matter*; what matters is what they have done.

These cases might seem to be extreme, but we can also imagine more mundane examples: I might not regret that your vase smashed (it's a really ugly vase, and you always keep your flowers in it far too long till they start to smell) but I regret that I smashed it; I might not regret that you broke your nose (I don't much like you and find your vanity annoying) but I regret that it's because I ran into you. These are the purest cases of agent-regret:

In **pure** agent-regret, one regrets one's action but does not regret the outcome itself.

This emphasises the difference between agent-regret and taking an external view. When I take an external view on my own action, I think that it was lamentable that someone was responsible for some outcome, but I do not regret that I was that person. In a pure case, I might not regret it were anyone else responsible for that outcome—what matters is that *I* was responsible.

The possibility of pure agent-regret shows a fundamental flaw in the standard picture. Let's look at this in terms of Gardner's account. What is evaluatively central to agent-regret is that I regret the fact of my responsibility *not* that I regret the outcome and thus regret my responsibility for that outcome. I might not regret the outcome. So, it can't just be that agent-regret *is* regret about some outcome that transmits to my own responsibility for it *because* I can feel agent-regret without feeling regret about that outcome. No doubt the standard picture often succeeds, in particular cases, as an *explanation* of why we negatively assess our responsibility and thus feel agent-regret; it is

right that sometimes we regard our actions as bad because we regard the outcomes as bad. But it fails as an *analysis* because agent-regret does not always involve such evaluations.

Too often are philosophers led astray by a misguided account of agent-regret: they recognise that there's something more than just regretting outcomes, they see that Williams is on to something, but they focus on the *bad outcome* of ordinary regret. But agent-regret is not just ordinary regret that spreads its tendrils into my responsibility. A proper analysis of agent-regret must explain why we might regret our responsibility for an outcome, and we cannot always explain this regret by way of our evaluation of the outcome itself. A proper analysis of agent-regret has to make room for a robust understanding of the various ways in which we might evaluate our responsibility for an outcome. We explore why our responsibility for outcomes might be significant, aside from the fact it leads to certain outcomes, in more depth in chapters 6 and 7. What matters here is just that we can see that the badness of my action is not always explained by the badness of this sort of outcome: the result that is, say, the death of the warmonger, does not always explain why I regret killing that person. Instead, we sometimes must appeal to other explanations of why someone might regret performing some action. To put it another way: sometimes we assess an action negatively because of what it leads to; other times we assess what we have done negatively, and it is negative only because that action did lead to that outcome, but it is the leading to that outcome, and not always the outcome itself, that we see in a negative light.

3.2 Foreseen and unforeseen

I noted in the introduction that we seem to find agent-regret in two sorts of case. In the one sort of case, we feel agent-regret because we are afflicted by something unforeseen. Perhaps we were ignorant of something and had no reason to know it might happen; but we are often just afflicted by bad luck. The outcome that arises, the outcome that we are responsible for, is in some respects unlucky. The driver is unlucky to be responsible for the child's death, the outcome arising because of his agency is unlucky for him. In the other sort of case, our agents know what they are doing. They are unlucky in that they have to make a choice, but they know what will arise in virtue of their choice. Or, in the language of outcome responsibility, they know what outcome will be ascribed to them—they know what they will be responsible for.

As I said in the introduction, I will mostly focus on such cases of unforeseen outcomes; yet I claimed that my analysis of agent-regret should extend also to cases of foreseen outcomes. Although I do not need to examine this in depth, it would be useful to sketch a brief account of how my account as offered so far applies to foreseen cases, rather than just making you take my word for it. To do this, I want to see how outcome responsibility is also the object of agent-regret when it comes to foreseen outcomes, and to note that they are also amenable to cases of pure agent-regret.

Recall Agamemnon's case. We can at least make a case that Agamemnon's conduct is unimpeachable. Even though there are versions of the story where Agamemnon must make his choice because he, an ancestor, or some crewmember has behaved badly, we do not have to suppose that in every case where one faces a dilemma or must choose between two evils one must do so because of some prior fault.¹³ For a case that is even more clearly free of fault, imagine someone in a boating accident who will inevitably face agent-regret because he can only save one of his wife or his son; it would be implausible to say that he faces this choice because of some prior fault.

Just as in cases of unforeseen outcomes, someone who feels agent-regret over making such a choice doesn't just regret the outcome itself. Nor do they just regret facing this choice, although they do regret that, too. Rather, the fact that Agamemnon must *kill his daughter*, the fact that the boatman must (in saving his wife) *abandon his child*, is what these agents regret. Were some friendly God to swoop down and pre-emptively kill Iphigenia before Agamemnon had to make his choice, Agamemnon might feel a deep sadness, but he will not have room for agent-regret. Were the boatman to see another ship in the distance that could easily reach his son, he would have no need for agent-regret. (What if our agents have already made their choice, only to then get a stroke of good luck? Still, it is outcome responsibility that carries the load. If the boatman abandons his son but his son is then saved, he cannot regret being responsible for his son's death. Although he abandoned his son and he is responsible for the outcome that

¹³ Honoré makes the same point that prior faults can't explain all such cases: Honoré, "Responsibility and Luck," 21.

is literally turning his back on his son.¹⁴) So, cases of agent-regret that arise when an agent foresees what she will be responsible for also involve regretting one's responsibility for some outcome.

Pure cases can also arise when it comes to foreseen outcomes—in fact, they might be more prevalent here. If one faces not a dilemma, but the lesser of two evils, there is a sense in which one does not regret the outcome, and Williams is astute to this: we might regret doing as we do despite recognising that what we did was “for the best”.¹⁵ Presumably, this means that the outcome was the best possible outcome. For instance, if one must give up one's career to look after one's ailing partner, one might regret this despite recognising that looking after one's partner is more important and not something itself to regret. Now, one might think that in the lesser of two evils there will be some bad-making feature of the outcome that explains such a case away (it meant you had to give up your career). But I also think that we can see this in cases where the outcome is not the lesser of two evils, rather it is something that one positively welcomes. It is such cases that show the inadequacy of the standard account even when applied to foreseen outcomes. Here is an example of what I have in mind.¹⁶

The boss does not want to fire the worker, but she knows that someone must fire him—and she is the boss.

The result of firing him is that he is out of a job. But she wants him to be out of a job: he's boorish and a bad worker. There's nothing about the *outcome* that she regrets. She just doesn't want to be responsible for it. How do we explain this, if she sees the outcome as a good thing? In this case we might think that the boss doesn't want to be *the sort of person* who fires someone (see chapter 7).

So, I have suggested that we can also understand agent-regret over foreseen outcomes as taking as its object our responsibility for such outcomes (rather than the outcomes or

¹⁴ Perhaps he can feel agent-regret over deciding to abandon his son. As I said at the start of 2.3, I will focus only on responsibility for outcomes in the world; it is possible that some cases of agent-regret arise because, say, we *formed* an intention.

¹⁵ Williams, “Moral Luck,” 31.

¹⁶ Rorty uses a similar case at Rorty, “Agent Regret,” 495. Rorty's employee is a bumbler, but is a sweet man with a family to support, and will be out of work. The boss in my example is not concerned for the employee.

the decision involved). Further, it seems that pure cases can arise also with regards to cases where one feels agent-regret over becoming responsible for some outcome even when one knows one will become responsible by acting in such a way.

3.3 What is agent-regret? Summary

I hope that we now have a robust and clear picture of the nature of agent-regret and its object. My aim in chapters 1 and 2 was to get a clearer picture of the object of agent-regret. In chapter 1, I set out to distinguish agent-regret from ordinary regret and from guilt. I made clear that agent-regret does not just involve regretting an outcome, nor does it just involve regretting one's own action. After all, we can take an external view on our own actions: I can recognise my responsibility for an outcome and regret that someone was responsible for that outcome without regretting that *I* was responsible for it.

Just as important as distinguishing agent-regret from ordinary regret was distinguishing agent-regret from guilt and seeing how agent-regret could exist without involving fault. I suggested that although agent-regret might be a form of guilt when guilt is broadly understood, the distinction Williams was after was more specific. Agent-regret is distinct from guilt when guilt involves fault (a "narrow" notion of guilt, as is manifested in the guilt of the morality system that Williams had in mind). I argued that if we use a notion of fault that concerns how an agent conducts themselves, we can see that our characters who feel agent-regret are not at fault, and nor need they think that they were at fault.

In chapter 2, I took up a challenge that we find offered by Daniel Jacobson: how can an agent feel agent-regret if her conduct was unimpeachable and this is not just regret about an outcome? I suggested that Jacobson's picture of how we think about actions was not complex enough. We can be responsible for outcomes in virtue of our agency. This responsibility is the object of agent-regret. This let us see that we can assess our responsibility for an outcome not in light of our decisions, which can be flawless in and of themselves, but in light of the outcomes that arise and which we are responsible for in virtue of intentionally acting. The point of that was to get us past Jacobson's challenge. In chapter 3, I added that we can also assess our responsibility for outcomes in other ways that do not depend on our assessment of the outcome itself. Thus, I suggested that agent-regret is not just regret about an outcome that spreads out to become regret about our responsibility for that outcome.

Now that I have set out my account of agent-regret, it is useful to contrast my account with several other broad accounts of agent-regret. As I noted in the introduction, although agent-regret is often encountered in the literature, it is often merely used for some quick point, or put to some purpose concerning moral luck, or dismissed with some scepticism. My aim here has not been to argue for my analysis of agent-regret *against* competitors in a crowded field. Rather, it has been to set out a plausible analysis of agent-regret. Still, it is useful to see how my account is distinct from some other broad ways of understanding agent-regret. Firstly, my account is distinct from accounts that are sceptical as to the nature of agent-regret. Such accounts hold that there is no such emotion as agent-regret, and that emotions like ordinary regret or guilt can cover cases like Maddie and the lorry driver. We encountered these in chapters 1 and 2, where I defended the idea that agent-regret was distinct from guilt and regret. My account is not sceptical as to the nature of agent-regret: I hold that there is an object of agent-regret, one's responsibility for an outcome, and this differs from the object of guilt (one's faulty conduct) and from mere regret (which takes as its object anything ranging from states of affairs to one's own responsibility, so long as one does not regret *that* one was responsible).

I also aim to offer an account that is *vindictory*. I do not merely say that were agent-regret to exist it would have our responsibility for an outcome as its object, only to deny that our responsibility for an outcome should ever garner regret. What's more, I aim to vindicate Williams's claim that agent-regret tells us something about agency. In chapter 4, we will encounter accounts that suggest we are not responsible for unintended outcomes, or that even if we are responsible in this way it is unimportant, or it is only important because of factors that do not concern our agency—such accounts deny the propriety of agent-regret, at least as Williams understood it. We will see how my account differs from such accounts throughout chapters 4 and 5.

What about non-sceptical accounts? We can already see that my account is different from the standard picture of agent-regret. It is important to note why my account differs. It is not necessarily that proponents of the standard picture have the object of agent-regret wrong; rather, it is that they misunderstand why we might regret our responsibility for an outcome. My account differs because I suggest that the negative evaluation made about one's responsibility can find a source other than one's evaluation of the outcome.

My account is also broader than an interesting account that Carla Bagnoli offers. She argues that agent-regret comes from an evaluation of the value of alternative options.¹⁷ In a sense, her account is a spin on the standard picture. On her account, one regrets not one's responsibility, but the fact that in so acting one missed out on a valuable alternative. At least for some cases where one foresees the outcome, Bagnoli's account is illuminating. The fact that the other option would have left his daughter alive, and his thoughts about the value of her life, will weigh heavy on Agamemnon's mind. Yet clearly something is missing from this; Agamemnon did not *just* regret the fact he could not realise that value, he also regrets the damage he wrought on his own daughter. And Bagnoli's account does not make so much sense of cases like the lorry driver's. Although he might see the value of the alternative—that no child has died—surely this does not really capture how he thinks of matters. What is most salient is the horror of what he has done. Further, Bagnoli's account fails to account for pure cases: it is not the value of the outcome, whether it is the outcome I chose or the outcome I forewent, but the value attached to my bringing it about, or not bringing it about. My account applies to the full range of cases of agent-regret.

As well as setting out an account of agent-regret, I hope to have clarified exactly what outcome responsibility is, and to have shown how it lines up with agent-regret. Recognising that our responsibility for an outcome is the object of agent-regret also gives us a clear topic for the exploration of whether agent-regret is *appropriate*. I said in the introduction that agent-regret is significant: it is *deep* and *widespread*. It is a major emotion that swallows up much of one's attention and time (as in the case of the lorry driver) *and* it is an everyday emotion that occurs in minor ways all of the time. To show that agent-regret is appropriate—to show that it is an emotion that we sometimes rightly feel—we need to show that it is an appropriate response to its object. For agent-regret to be appropriate, it needs to be the case that sometimes outcome responsibility is significant enough to justify swallowing up much of one's time and attention, and for outcome responsibility to be moderately important in many instances in everyday life.

This sets the task for Part II. I have presupposed (at 2.3.1) an account whereby we are responsible for outcomes that we did not intend. I called this by the not-too-catchy

¹⁷ Bagnoli, "Value in the Guise of Regret." See also Rosati, "Mortality, Agency, and Regret."

acronym “SIO”. This held that for an outcome to be ascribed to my agency, I must have done *something* voluntarily. There are clearly two major obstacles to this. Firstly, if it turns out that we can only ascribe an outcome to someone’s agency if they intended that outcome, or if that outcome reflects their deep and genuine desires—like in TIO—then agent-regret will be inappropriate because we will not be responsible for those unintended outcomes, and thus cases of unforeseen outcomes like that of the lorry driver or Maddie will not be cases of responsibility, and will not be appropriate cases of agent-regret. (We still might find agent-regret in cases of foreseen outcomes; but that is partly why I have focused on unforeseen outcomes: there is more of a challenge to be faced here.) Secondly, if it turns out that we are responsible for outcomes that we did not intend but this responsibility is unimportant (like how a distant ancestor is, in some very attenuated sense, metaphysically responsible for the lorry driver killing the child), or unimportant in terms of agency, then this will also not be able to vindicate agent-regret’s place in our lives or in our agency. So, we need to see *that* we are responsible for outcomes, *and* that this responsibility is *important*.

Chapter 4

Responsibility and the Unintended

... it is in the nature of action that such regrets cannot be eliminated, that one's life could not be partitioned into some things that one does intentionally and other things that merely happen to one."
Bernard Williams¹

In Part I, I argued that there is some conceptual ground, distinct from ordinary regret or guilt, for the emotion of agent-regret. Getting clear on the nature of agent-regret and its object is only half the task. Much of the contention around agent-regret has not been about how we understand its object, rather it has been about that object itself. Firstly,

Are we responsible for outcomes, even if we did not intend to bring them about?

For Maddie or the lorry driver to feel agent-regret, they need to be responsible for the smashed vase or the child's death, despite the fact that they did not intend to bring about such outcomes, and their behaviour was faultless. Secondly,

In what way does our responsibility for particular unintended outcomes matter?

It may well be that we are, in some sense, responsible for unintended outcomes. But it might be that this responsibility is unimportant, or unimportant to these agents, just as we would think that metaphysical causal responsibility is ethically unimportant: it doesn't matter to a distant ancestor, or to their sense of agency, that a descendant killed someone (and would not have done so had the ancestor not procreated). *Mere* causal responsibility doesn't seem to count for much, so we need to show that outcome

¹ Williams, *S&N*, 70.

responsibility is more important than just that. And we need to show the way in which responsibility for a particular unintended outcome (e.g. the driver killing the child) matters.

The task we pick up in Part II is to answer these questions. We start, in 4.1, with the importance of outcome responsibility in general—that is, the importance of being held responsible for outcomes, where this is perhaps just limited to the importance of being responsible for intended outcomes. I suggest that we need *some* conception of outcome responsibility because outcome responsibility is central to our status as agents and to our self-respect. In 4.2 we will explore three attempts to understand what it means to be an agent, in terms of our responsibility for outcomes. The first is the picture Williams targeted in “Moral Luck”: it is the Kantian account that focusses on an agent’s own contribution. We will see that such an account fails to allow for outcome responsibility, so I quickly set it aside. I suggest that there is a way of understanding outcome responsibility as restricted to intended outcomes, and this can respect the importance of outcome responsibility.

So why accept that we are responsible for unintended outcomes? In 4.2, I develop the idea that we are responsible for outcomes we did not intend, and this is because to be an agent at all is to be (open to being) responsible for outcomes we did not intend. I call this “Unintentionalism”. The Intentionalist denies that we need to be responsible for unintended outcomes in order to be agents. The rest of the chapter is an exploration of the ways in which the Intentionalist might both make sense of agent-regret and go on the offensive against the Unintentionalist. In 4.3 we explore the **revisionist** challenge to agent-regret that says that “agent”-regret doesn’t involve agency at all. In 4.4 we explore the **rejectionist** challenge that tries to debunk agent-regret. By the end of 4.4, we should see why we cannot take for granted, as I have done in chapter 2, the idea that we are responsible for outcomes we did not intend. This sets us up for a defence of Unintentionalism in chapter 5. In Chapter 6, we move on to why our responsibility for particular unintended outcomes is important.

4.1 The importance of outcome responsibility

What does it mean to be an agent? In the most basic sense, agents change something or do something. Agency is obviously linked to being responsible for outcomes in the

domain of agency that concerns *practical* agency. Given the sort of cases we are discussing—smashed vases and slain children—we will focus solely on practical agency rather than theoretical agency, and we will focus on the element of practical agency that concerns the impact we make on the world (i.e. not the aspect concerning weighing up reasons).²

Practical agency makes an impact on the world.

Why is outcome responsibility important to our practical agency?³ Take Honoré's claim that:

"If actions and outcomes were not ascribed to us on the basis of our bodily movements and their mental accompaniments, we could have no continuing history or character. There would indeed be bodies and, associated with them, minds. Each would possess a certain continuity. They could be labelled A, B, C. But having decided nothing and done nothing these entities would hardly be people."

This connects being responsible for outcomes to our practical agency—to *doing* things.⁴ If outcomes were not ascribed to us on the basis of the exercises of our agency, we would have on the one hand bodies and minds, and on the other hand we would have outcomes. But there would be no *link* between the bodies and minds on the one hand and the outcomes on the other. Our movements and our mental exertions would be unrelated to outcomes in the world. Outcome responsibility establishes such a link between our bodies and minds and the world. It establishes a link (and a link that runs in a specific direction) that lets us say that certain changes in the world, the fact that certain outcomes have come about, are down to what people, *qua* agents, have *done*. It does this, as we have seen in chapter 2, by *ascribing* these outcomes to one's agency, thus it provides the link required.

² Allan Beever says that "In choosing to act, we launch ourselves upon the world, but it follows that we choose outcome responsibility only if outcome responsibility is built into the notion of choosing to act. But there is no reason to think that choosing to act necessarily involves a commitment to outcome responsibility." Beever, "Corrective Justice and Personal Responsibility in Tort Law," 488. My argument is that outcome responsibility *is* built into launching ourselves upon the world.

³ Honoré, "Responsibility and Luck," 29.

⁴ See also Stephen Perry's discussion at Perry, "Honoré on Responsibility for Outcomes," 71-72. Here, Perry discusses several of the issues we will come on to in chapters 5-6.

Stephen Perry agrees. He thinks that these considerations should show us that:

*“The concept of outcome-responsibility is a necessary concomitant of the concept of agency, since not every outcome to which our actions causally contribute is properly attributable to us as agents”.*⁵

Outcome responsibility lets us distinguish ourselves from mere forces of nature, such as are involved in certain forms of metaphysical causal responsibility. Perry is right that outcome responsibility narrows what we are responsible for, but the positive side is as important: outcome responsibility connects us to the world such that we can influence it as agents.

Outcome responsibility establishes the connection between an agent and the world. This connection is central to practical agency.

Our agency is clearly important to us and given the role of outcome responsibility in our agency, it seems that outcome responsibility must also be important to us. I now want to sketch two specific ways, both of which arise in the outcome responsibility literature, in which our outcome responsibility is important to us.

Our status as persons.

One particularly important connection that is often brought out in discussions of outcome responsibility is between outcome responsibility and our **status as persons**.⁶ Roughly the idea is that it is central to the idea of a person that persons can make an impact on the world, if we could not make that impact on the world we would not be persons; because being able to make an impact presupposes that we are responsible for outcomes, our status as persons presupposes that we are responsible for outcomes. No

⁵ Perry, 72. Both Perry and Honoré occasionally use the language of “authorship”, see also Honoré, “Appreciations and Responses,” 227. Note that I distinguish not only between a causal link and an agential link, but also between an agential link and an authorial link; see above at 2.3.1 and below at 5.1.4. Authorship involves intent or the deep self.

⁶ Honoré makes this claim at several points: Honoré, “Responsibility and Luck,” 15, 40; Honoré, “The Morality of Tort Law,” 76; Honoré, “Being Responsible,” 134–35. Perry stresses how we are persons in virtue of being *agents* Perry, “Honoré on Responsibility for Outcomes,” 72. See also Duff, *Answering for Crime*, 2009, 100. Note, Duff lays more stress here on intentional agency. And see Gardner, *From Personal Life to Private Law*, 64–71. Gardner claims that decision-makers are “would-be world-affecter[s]” (66): if Gardner is right, then our status as persons *understood as a claim about our status as weighers of reasons* also relies upon our responsibility for outcomes.

doubt that there is something right about this. Yet it strikes me that we should not rule out the idea that there could be persons who are not agents.⁷ And there could be societies with very different structures to ours where persons are not regarded (at least not as individuals) as agents.⁸

I want to rest, then, with a more restricted claim: outcome responsibility underpins *our* status as persons *because* we think that agency is a central *part* of personhood.⁹ Although someone could be a person without being responsible for outcomes, they would be lacking some important part of personhood as we regard it;¹⁰ further, being an agent is a central part of how most or all of us (where this “us” is culturally bounded) conceive of ourselves as persons.¹¹

Outcome responsibility is central to *our* conception of what it means to be a **person**, because we see persons as practical agents, and practical agency presupposes outcome responsibility.

Self-Respect

Responsibility for outcomes also relates to our self-respect.¹² It is important to the woodworker that he can carve a blue jay or a cardinal, it matters to the builder that he can make a house. And this is true over and above merely coming out with a good plan to carve a cardinal or build a house. We need to make sure that our picture of agency captures this and thus accords with our self-respect.

⁷ Take those with locked-in syndrome (See Jean-Dominique Bauby, *The Diving Bell and the Butterfly*.) For an example from the philosophical literature, we might think that Brains in Vats are persons. My point is that those with a rich mental life who can exert no influence on the world might be persons.

⁸ Charles Taylor suggests the idea of a “first-person standpoint” was absent before Augustine: Taylor, *Sources of the Self*, 130. See Chapters 7 and 10 especially. For the family as the basic ethical unit, see Dodds, *The Greeks and the Irrational*; Miller, *Humiliation*. For society as the important ethical unit, see MacIntyre, *After Virtue*.

⁹ The claim in the literature is ambiguous: is outcome responsibility central to the status of persons however we construe persons, or just to *our* status in the way that I suggest below?

¹⁰ See Nelson, “What Child Is This?,” 30–33; Schechtman, *Staying Alive*, 71–72, 103–4, chaps. 5–6. Nelson and Schechtman both think that someone can be a person in virtue of how they are treated, even if they lack other typical characteristics. We discuss their views in a little more depth in chapter 6.

¹¹ Raz takes a similar approach: Raz, *ENTR*, 251.

¹² Raz also draws a link between responsibility and self-respect, see Raz, 245, 268. Honoré mentions self-respect at Honoré, “Introduction,” 10; Honoré, “Being Responsible,” 131–32, 142.

What is self-respect?¹³ The Rawlsian characterisation seems about right: self-respect concerns successfully doing valuable things.¹⁴ If I see my bringing about an outcome as valuable, bringing it about will augment my self-respect; more generally, if I see being able to bring about outcomes as valuable, the fact that I am an agent will be important to my self-respect. Rawls explicitly assumes that our doings will not seem valuable, or will seem less valuable, if they fail to “call upon [our] natural capacities in an interesting fashion... [Otherwise,] they are likely to seem dull and flat, and to give us no feeling of competence or a sense that they are worth doing”; we want them to be of “suitable complexity and refinement.”¹⁵ Being responsible for outcomes allows us to have a greater variety of plans and goals than if we were only responsible for, say, the workings of our minds. Further, many of these things are difficult and seem worthwhile. We could not sculpt, woodwork, play sports, build, and so on, if we were not responsible for outcomes in the world; and we seem to *deserve* respect for the changes we make in the world. These changes are not easily achieved, and rest on some potent capacities. (We’ll consider this more in 5.1.3)

Being responsible for outcomes is a central pillar of our **self-respect**.

Were we not responsible for outcomes, we would be worthy of less respect than we actually do deserve as authors of change in the world.

4.2 Views of agency and responsibility

Thus, being responsible for outcomes is important. What we need to now see is *when* someone exercises their agency, when an outcome can be ascribed to an agent. In chapter 2, I introduced SIO: for an outcome to be ascribed to my agency, I must have intended to do something (I must have been doing *something* voluntarily), and must be appropriately causally related to that outcome, but I need not have intended that outcome. In this chapter, I explore why one might prefer TIO: for an outcome to be ascribed to my agency, I must have intended to bring about that outcome, and must be

¹³ I don’t distinguish self-respect and self-esteem.

¹⁴ Rawls, *A Theory of Justice*, sec. 67.

¹⁵ Rawls, 440. See the “Aristotelian Principle” at Rawls, sec. 65. Rawls grants some people may derive self-respect from menial tasks, but most of us require complexity Rawls, 432–33.

appropriate causally related to that outcome. I will set out why one might accept TIO, and how proponents of TIO might oppose Williams's account of agent-regret.

Before focussing on these, I first want to very briefly present the picture that Williams takes as his target in "Moral Luck". The idea that we are responsible for outcomes even when we did not intend them is set in contrast to another position: that we are only responsible for something if we fully controlled it, if it arose solely due to our contribution.¹⁶ Nagel offers a clear statement of this position: "Prior to reflection it is intuitively plausible that people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control."¹⁷

On such an account we should, as Williams put it, "allocate blame and responsibility on the ultimately fair basis of the agent's own contribution, no more and no less."¹⁸ This is the morality system that we discussed, in relation to guilt, in 1.3. Yet these accounts tend to suggest something further; not only are we judged on our own contributions, but our own contributions are all that count as *ours*. Nagel exemplifies this. Much of his "Moral Luck" clearly concerns what it means to be a responsible agent as opposed to being merely "a portion of the larger sequence of events".¹⁹ Nagel is not just interested in judgment but also in what counts as down to my agency; he expresses this when he runs together "the area of genuine agency, and therefore legitimate moral judgment".²⁰ What

¹⁶ For control, see, most vividly, Kant, *Fundamental Principles of the Metaphysics of Morals*, sec. I. Williams cites Kant as his target at Williams, "Moral Luck," 20-22, 38. And see Nagel, "Moral Luck." For intention-based accounts, see Crisp, "Moral Luck and Equality of Moral Opportunity," 9-10. Also Smith, *TMS*, II.iii.intro. For a superb discussion of this see Russell, "Smith on Moral Sentiment and Moral Luck." Andrew Ashworth offers a similar sort of view for criminal liability Ashworth, "Taking the Consequences." On Ashworth's account, the harm or risk of harm might affect delineating the offence, but whether the harm actually occurs should not Ashworth, 122. See also Edwards and Simester, "Crime, Blameworthiness, and Outcomes." Note that many of these intention-based accounts can be interpreted in two ways: they hold us responsible solely for our *intentions*, or they hold us responsible for the outcomes that we intend. The former is of the ilk that I will set aside for this discussion, the latter could be seen as a version of what I below called TIO and should not be dismissed on the back of dismissing the more restricted account that I here set aside.

¹⁷ Nagel, "Moral Luck," 25.

¹⁸ Williams, *ELP*, 194. Our own contribution is supposedly all that matters because our own contribution is supposed to "possess some special, indeed supreme, kind of dignity or importance." Williams, "Moral Luck," 21. See also 38.

¹⁹ Nagel, "Moral Luck," 37.

²⁰ Nagel, 35. Gardner discusses how Nagel runs together the judgment of agency and an account of agency at Gardner, *From Personal Life to Private Law*, 60. See also when Nagel clearly discusses responsibility rather than judgment when he discusses "the point of view which makes responsibility dependent on control" Nagel, "Moral Luck," 31.

counts as my own contribution—and thus what counts as down to my agency, what outcomes I am responsible for—is, on such accounts, what I control or intend. As Davidson put it, supposing that we control (only) the movement of our bodies: “We never do more than move our bodies: the rest is up to nature.”²¹ The gunman moved his body and that can be ascribed to him, but nothing else can be. One hand pulled the trigger, another guided the bullet.

Such accounts take a hard line on agent-regret. They deny what I have argued in chapter 2: namely, that we (do or should) conceive of our actions as involving more than our own decisions, and as assessable in light of more than merely these decisions. The lorry driver can regret that the child died and might even admit he was in *some* (merely causal) sense responsible for it, but this responsibility does not cut through to his agency nor to how he should understand *his* action. Although he may regret the outcome, he should not care about it as an important fact about his agency, and thus should not feel something like agent-regret.

For the most part, I will not discuss such accounts, except to provide further contrasts in chapter 5. “**Contribution-based**” accounts of agency suffer from one major flaw: they end up as nothing like accounts of *practical* agency. If we think that what counts as down to my agency is given solely by the extent of my own contribution, then we’ll quickly hit the realisation that there’s nothing in the external world that arises solely due to my contribution, and so I won’t be able to make any impact on the world.²² As Nagel put it, “the area of genuine agency...seems to shrink under this scrutiny to an extensionless point.”²³ Thus it is unable to account for our responsibility for outcomes, unable to

²¹ Davidson, “Agency,” 59. Note that Davidson does think we can attribute the death to the agent *because* we can redescribe the wounding in terms of pulling the trigger, see Davidson, 57–59.

²² See Feinberg, “Problematic Responsibility in Law and Morals,” 348–51; Nagel, “Moral Luck,” 32. For the claim that we lack responsibility because we also do not contribute to our traits, see Strawson, *Freedom and Belief*. See also Rawls, *A Theory of Justice*, sec. 17. The idea that we are not in control of our talents has led to some central debates in the philosophy of sport concerning merit, see: Carr, “Where’s the Merit If the Best Man Wins?”; Loland, “Simon on Luck and Desert in Sport”; Morris, “Moral Luck and the Talent Problem”; Simon, “Deserving to Be Lucky.” I am inclined to think that if an account holds that we cannot praise Paul Scholes because he was not in control of becoming so talented, then so much the worse for that account of praise.

²³ Nagel, “Moral Luck,” 35.

properly capture our status as persons, and unable to properly account for the self-respect that we accord ourselves.

We need to move away from this in order to make sense of the idea that we are responsible for any outcomes in the world and are thus practical agents. My focus will not be on defeating such a view; rather, I start from the idea that we *are* responsible for outcomes, and our status as persons and self-respect *rightly* rests on this. My aim is to make this picture plausible, not to defend it from scepticism. Let's turn to TIO. On this account, we are responsible for outcomes so long as we intend to bring those outcomes about, or bring them about voluntarily, or in bringing them about act on some deep values. (These construals are distinct and one can do something intentionally without reflecting some deep values, but I will tend to talk of "intended" outcomes, for simplicity.²⁴)

TIO allows that it might be partly down to luck whether or not I *am* responsible for an outcome because it allows that whether I do successfully realise my intention might need the intervention of luck (see 5.1). What the intention-based element resists is the idea that we are responsible for unintentional effects: for outcomes that arise because I have acted but which were not intended (though such accounts might hold us responsible for what we reasonably foresee, counting this as part of the intention, see 5.3.1). Rather than seeing unintended outcomes as the products of my agency, such an account sees them as "swallowed up by the order of mere events."²⁵ So, we are not subject to luck insofar as we are not responsible for unintended outcomes.

It can be tempting to assume that outcome responsibility plays its role in our self-respect and our status as persons in virtue of its relationship with *unintended outcomes*. After all, much of the discussion of outcome responsibility—particularly in Honoré—concerns when we are responsible for outcomes that we did not intend to bring about and the importance of our responsibility for outcomes in the world. But it is one thing to say that our self-respect and conception of ourselves as persons depends upon being

²⁴ Adam Smith's account leaves us responsible for both consequences that "were somehow or other intended, or those which, at least, show some agreeable or disagreeable quality in the intention of the heart" Smith, *TMS*, II.iii.intro.3.

²⁵ Nagel, "Moral Luck," 36.

responsible for outcomes, it is *another* thing to say that they depend upon our responsibility for unintended outcomes. TIO can underpin the idea that we are agents who make an impact on the world, and thus it can capture status as persons and it can allow that we base much of our self-respect on our responsibility for various outcomes. Yet Honoré and Williams both think that our self-respect, our status as persons—fundamentally, the very fact we are agents—depends upon the fact we can be responsible for unintended outcomes. Why?

4.3 The nature of agency

Why would we accept that we are responsible for unintended outcomes when TIO allows us to be responsible for outcomes, and thus can underpin our status as persons and self-respect? In 4.3.1, I set out the idea that we are responsible for outcomes that we did not intend to bring about *because* the nature of agency is such that, in order to be agents, we must be responsible for such unintended outcomes; and I set out an account that denies this. In 4.3.2, I suggest that we need to take agent-regret *seriously*, but this does not mean we must accept that we should feel agent-regret.

4.3.1 Unintentionalism and Intentionalism

Williams held that our propensity for agent-regret showed that we must either we get rid of the idea of agency as “fairly superficial” or hold that it is not superficial:

“but that it cannot ultimately be purified—if one attaches importance to the sense of what one is in terms of what one has done and what in the world one is responsible for, one must accept much that makes its claim on that sense solely in virtue of its being actual.”²⁶

Williams thought that if we take agent-regret seriously, we must recognise that what we do involves the unintended effects of our actions, too: the “actual” makes its claim on me as an *agent*. Further, it would be an “absurdity” to hold that we could “entirely detach ourselves from the unintentional aspects of our actions, relegating their costs, so to speak, to the insurance fund, and yet still retain our identity and character as agents.”²⁷

²⁶ Williams, “Moral Luck,” 29–30. See also Williams, *S&N*, chap. 3; Williams, “Voluntary Acts and Responsible Agents.”

²⁷ Williams, “Moral Luck,” 29.

To do so would be false to the picture of what it means to be an agent that is implied by our propensity for agent-regret, which *respects* the fact that “anything that is the product of the will [of our intentional agency] is surrounded and held up and partly formed by things that are not”.²⁸ It isn’t just the actual, it is the *unintended actual* that matters. If Williams is right, then the fact that the unintended actual makes its claim on me is somehow based on what it means to be an agent. To understand the importance of agent-regret requires us to flesh out this picture of agency. It requires us to understand what it means to be an agent and why being an agent requires that we take responsibility for the actual.

Tony Honoré also makes a similar claim at various points. Take the following quotation:

*“[outcomes] are ascribed to authors, who accordingly count as persons; and it is by virtue of these ascriptions that each of us has a history, an identity and a character”*²⁹

It is clear from the context that Honoré has in mind outcomes being ascribed to authors even when they *did not intend* to bring about these outcomes.

Neither Williams nor Honoré offer us explicit and well-developed explanations of the relationship between unintended outcomes and what it means to be an agent. I think that two main claims lurk in the ideas, expressed by Honoré and Williams, that our responsibility for unintended outcomes is a central and important part of our agency.³⁰ It is one thing to say that the fact I am responsible for unintended outcomes is central to my status as a person. Here, it *doesn’t* matter which outcomes one is responsible for; this is akin to the claim that I have the features that allow me to be held responsible for the death. It is another thing entirely to say that the fact I am responsible for some particular unintended outcome affects my identity.³¹ Here, it *does* matter which outcomes one is responsible for; this is akin to the claim that my responsibility for the death has some impact on me. In chapter 5, we will consider why exactly the ascription

²⁸ Williams, 29.

²⁹ Honoré, “Responsibility and Luck,” 29.

³⁰ Others recognise that there are two claims, particularly in Honoré’s work. See Perry, “Honoré on Responsibility for Outcomes,” 70–72; Chapman, “Responsibility and Fault as Legal Concepts,” 216.

³¹ In John Gardner’s idiom, it is one thing to say that being basically responsible is central to my status as a person; it is another thing to say that being responsible for this very thing affects my identity. For basic responsibility see my chapter 2 note 69

of unintended outcomes to a person—to their agency—is central to their being an agent in the first place. In chapter 6, we will turn to the ways that responsibility for particular outcomes affects our identities. (The former claim goes with the idea that our status as persons depends on being responsible for outcomes; the latter relates to our self-respect but identity also encompasses features that do not relate to our self-respect.)

In those two chapters, I will be defending and exploring the idea that we are responsible for unintended outcomes because of the nature of our agency. I call this position:

Unintentionalism about agency: Agents are responsible for unintended outcomes *because* the nature of our agency leaves us responsible for unintended outcomes.

This is an account of *why* we are responsible for outcomes that we did not intend. The Unintentionalist says that not only are we responsible for the outcomes we did not intend, but that being responsible in such cases is central to being an agent. SIO is true *because* to be agents we must be responsible for certain unintended outcomes.

My aim, as I noted in the introduction, is to vindicate Williams's account of agent-regret and the impacts that he supposed agent-regret had: namely in revealing to us something about our agency. But what sort of account contrasts with Unintentionalism?

Intentionalism about agency: The nature of our agency does not leave us responsible for unintended outcomes.

Intentionalism nicely lines up with TIO. Still, one could accept SIO but deny the Unintentionalist line; for instance, one might think that although some outcomes can be ascribed to an agent even though they did not intend that outcome, this is not *because* the nature of agency leaves us responsible for unintended outcomes.

Thus there are three sorts of position that one might take up, granted that agents are responsible for some outcomes, and that we need some agential element in order to leave people responsible as agents so we need (something like) intentions to figure at some level. One could hold that agents are responsible for unintended outcomes so long as one had some intention in play and this is *because* the nature of agency leaves us responsible for such unintended outcomes (Unintentionalism). One could hold that

agents are responsible for unintended outcomes so long as one had some intention in play *but* we are not responsible because of the nature of our agency, instead agency itself leaves us responsible only for intended outcomes (Intentionalism+SIO). Or one could hold that agents are responsible for outcomes only if they intended those outcomes (Intentionalism+TIO).

Why would we accept Intentionalism? Well, because the idea that we are agents in virtue of being able to shape the world to our desires (etc.) is a powerful one and is a plausible picture of agency. I won't set out to defend Intentionalism, because I take it that it offers a fairly plausible picture of agency that we can broadly see the attractions of. Instead, I want to focus on why one might deny Unintentionalism, whether or not one thinks that we can be responsible for unintended outcomes in some other way.

4.3.2 Setting the dialectic

One of the lures of agent-regret, and thus of being held responsible for unintended outcomes, is that it seems so *realistic*. We do seem to be responsible for outcomes we do not intend to bring about; the lorry driver does seem to regret not just that the outcome arose, but that it was *because of him*. Williams thought that the fact that agent-regret seems to have such a place in our lives told against rival accounts. As I noted in the introduction, Williams was a proponent of the idea that our reactions and emotions were an important sign of what we are and what matters to us. He thus held that it would be an “insane concept of rationality”—an insane conception of what it means to be a rational *practical* agent—which insisted there was no place for agent-regret.³²

Much as we must respect our emotional reactions and recognise that they often are deeply revealing, we can't just assume that every type of reaction or emotion is appropriate: there is space for bugs in the system. Yet there is a *prima facie* case to be made for the importance of agent-regret, and for the importance of what seems to be its object: namely, our responsibility for outcomes, even when we did not intend to bring about those outcomes. If you are an Intentionalist (or if you accept the contribution-based picture that I have set aside), how do you account for the fact that the lorry driver

³² Williams, “Moral Luck,” 29.

seems to be in a special situation in virtue of what he has done? One option is just to rule out agent-regret on the strength of theory—agency just *is* the transference of our intentions or desires into the world—but that is dialectically inert. It becomes a mere butting of heads to merely assert the plausibility of agent-regret or the truth of some account of agency that rules it out.

In the next two sections, I want to sketch two broad challenges that account for the *prima facie* plausibility of agent-regret yet stand as genuine challenges to Unintentionalism. Although these challenges might allow that there is some other reason why we are held responsible for outcomes (as I noted, an Intentionalist might accept SIO), it should become clear that they all chip away at the idea that we feel *agent*-regret, or that agent-regret tells us anything interesting about our agency. Yet they stand as genuine challenges because they take agent-regret seriously. Yet they do not think it would be an absurdity to hold that we could detach ourselves from the unintentional aspects of our actions and still retain our identity and character as agents; according to these challenges, the Unintentionalist goes wrong in claiming that to be agents we must be open to being responsible for unintended outcomes. Yet they recognise the plausibility of holding that we rightly feel agent-regret and go some way towards explaining *why* agent-regret seems to have such a place in our lives.

The first approach is **revisionist**: such an account offers an explanation of agent-regret that does not suppose that ascribing the death of the child to the driver matters *because of* some relation with his agency; it instead focusses on some other feature such as our picture of a virtuous person, or our attachments, to explain why we might feel “agent”-regret. The second is **rejectionist**: it offers an explanation of why we hold ourselves responsible for outcomes that shows why agent-regret seems to occupy a role in our lives yet also why we should reject the idea that we are responsible and thus should abandon agent-regret.

Such approaches accept that agent-regret seems to have a role in our lives. But they go on to deny the underlying Williamsian picture. In showing how an account of agency can reply to these challenges yet still make room for agent-regret, I will provide the backbone of an account of agency that Williams did not offer, but which helps explain why we might have to be held responsible for unintended outcomes in order to be

agents. We come on to this in chapter 5; before then, we must explore some versions of these challenges in depth.

4.4 The Revisionist approach

On a **revisionist** approach, we can say not only that there's something terrible about the child's death, but that there might also be something special about the agent being caught up in such a nasty affair that allows the lorry driver to feel an emotion distinct from ordinary regret. He is not responsible just because he is an agent, but there is something about his involvement that attaches him to the outcome and leaves him responsible *or* gives him some special ground for (some special form of) regret. The first approach says that he feels something like agent-regret because he *takes on* responsibility; this is not because his agency demands it of him but because good people take responsibility even when they do not have to. We look at this in 4.3.1. The second approach says that the driver does not feel agent-regret, rather he feels personal regret, which is distinct from ordinary regret. This involves caring about our connections to the world, rather than about our agency. We look at this in 4.3.2. Whether or not such accounts leave us responsible for unintended outcomes (whether they accept SIO or TIO), they deny that we are responsible due to the nature of our agency. I argue that neither account explains enough: it's not clear why we are responsible, or should take responsibility, if this is not linked to what it means to be an agent; and it is not clear why any such connection matters.

4.4.1 Revisionism about responsibility

The Intentionalist denies that we are responsible, in virtue of being agents, for outcomes that we did not intend to bring about. But perhaps we can find a source, other than our agency, that explains why we should take responsibility for these unintended outcomes. For instance, we might see agent-regret as properly responding to our epistemic limitations. Although I dismissed this account in 1.3.2, we can see it as revisionist: if it turns out that (actually) I was not at fault and thus the outcome should not be attributed to my agency, it might still be good for me to act and feel as if I were at fault because (for all I know) I might have been at fault. For instance, Jacobson thinks that the lorry driver should not feel agent-regret, and he should only ascribe to himself the outcomes he intended. Yet Jacobson also holds that "*in some sense* he should have such feelings"

of agent-regret.³³ Jacobson thinks that we would “have doubts about the *character* of a driver who too easily adopted the attitude of a spectator, when he was the causal agent of some disaster.”³⁴ This is because someone who feels something like agent-regret properly scrutinises himself; an agent who does not feel agent-regret doesn’t scrutinise himself properly.³⁵ Agent-regret is misplaced from the point of view of agency because the agent is not actually responsible and not actually at fault, but by taking responsibility by thinking she was at fault, she shows herself to be an admirable human being. She has the virtue of epistemic humility.

Another form of revisionism doesn’t focus on our doubts about fault; rather it focusses on what sort of person might take responsibility for unintended outcomes.³⁶ Suppose that it’s true that as agents only intended outcomes are ascribed to us. Still, there is a sense in which unintended outcomes are metaphysically causally linked to our agency. Do we have any reason to think that although our agency does not demand it, this causal link gives us grounds for a special form of regret? One might think that there is virtue in taking responsibility, as Susan Wolf puts it, “in an expansive rather than a narrow way.”³⁷ Why would it be virtuous to think our (perhaps merely causal) responsibility for unintended outcomes matters when *qua* agents we are not responsible?³⁸ Because to ascribe responsibility (and the ensuing liabilities) to ourselves even when our picture of agency does not demand that we do so is to be virtuous in a way akin to being *generous*.³⁹ We should take responsibility not because of our status as agents, but because of our status as virtuous people.

The Unintentionalist holds that we are responsible for outcomes just in virtue of our agency. There is no further step required to take responsibility, we just *are* responsible. The Intentionalist denies this. But the Intentionalist can add that we are not only agents;

³³ Jacobson, “Regret, Agency, and Error,” 113–14.

³⁴ Jacobson, 114.

³⁵ Jacobson, 114. See 1.3.2 for the discussion of the doubts about fault challenge

³⁶ One might associate the following with Wolf, “The Moral of Moral Luck.” In fact, I think that Wolf’s position is best read as closer to my own position. See 5.3.2.

³⁷ Wolf, 13. Note that Wolf’s position concerns not just the ascription of an outcome, but also liabilities dependent on this. She thinks we should also be willing to bear the costs of the outcomes that are ascribed to us.

³⁸ Wolf suggests that “objectively” one is responsible only for what one intends; yet one who does not feel agent-regret fails in not taking responsibility “in a way that goes beyond that.” Wolf, 13.

³⁹ Wolf, 14.

we are people and we care about being good people. On this picture, we can *take responsibility* by ascribing outcomes to ourselves *and* this responsibility is not forced upon us by our very agency.⁴⁰ Why would we do this? Because caring in this way is part of being a good person. In this sense, we *should* care about our responsibility for unintended outcomes, and we *should* respond by imbuing this merely causal responsibility with more importance, and by responding to it with something like agent-regret.⁴¹ Agent-regret deserves its place at the table as a virtuous mistake, a cognitive error (about which parts of our agency matter) that makes us better people. Still, we must *take responsibility*—this is not forced on us by our status as agents.

Virtue revisionism: we ascribe responsibility to ourselves for unintended outcomes not because of our agency, but because to take responsibility in such cases is virtuous.⁴²

The lorry driver, were he not to hold himself responsible for the child's death, would not show any flaw in his understanding of himself as an agent. Yet good people are epistemically humble, or good people are generous. The lorry driver, depending on the account we favour, shows that he is too sure of himself, or that he is ungenerous and uninterested in the people with whom he shares a world.⁴³

But this account has a problem—a problem we will also locate more broadly in other revisionist accounts at the end of 4.4.2. A bystander may generously offer to pay to fix the vase, but although we might “appreciate and even admire the bystander's offer, we might also be slightly puzzled by it, or even, in certain cases, resent it.”⁴⁴ Yet we *expect* Maddie to offer to fix the vase.⁴⁵ More fundamentally, we expect her to admit that she smashed it. But why? It's no good to say that we expect her to admit she smashed it and to fix it just because she is, say, causally responsible. That doesn't *explain* why she would

⁴⁰ Wolf uses the language of “taking responsibility” throughout Wolf, “The Moral of Moral Luck.” David Enoch, in offering an account that draws on Wolf's, uses the language of taking responsibility: Enoch, “Being Responsible, Taking Responsibility, and Penumbra Agency,” 104.

⁴¹ I say “something like” to encompass Jacobson's own construal of agent-regret as a form of guilt.

⁴² Cf. the claim that this isn't virtuous, it is expected: Hankins, “Adam Smith's Intriguing Solution to the Problem of Moral Luck,” 738.

⁴³ Wolf, “The Moral of Moral Luck,” 12–13.

⁴⁴ Wolf, 14. See Jacobson, “Regret, Agency, and Error,” 106.

⁴⁵ Wolf, “The Moral of Moral Luck,” 14.

ascribe the outcome to herself or why we would hold her responsible, given that the presupposed picture of agency says that this ascription doesn't matter *qua* agency. There needs to be an explanation of why it is virtuous to take responsibility for something that, purely as an agent, she is not responsible for. What is it about the fact an agent is somehow causally implicated that makes it the case that it's virtuous to take responsibility as if one were an agent, even though one did not intend to bring about that outcome? It's not clear to me that the revisionist has an acceptable answer—we will return to this in more depth soon.

4.4.2 *Wallace's Revisionism*

Jay Wallace offers a different approach. He is sceptical about agent-regret as Williams describes it and sets out to offer an alternative.⁴⁶ Wallace sees Williams as forging a distinction between “impersonal and agential forms” of regret.⁴⁷ Impersonal regret is the regret of the bystander or the regret we feel about things that just happen in the world like the distant earthquake.⁴⁸ Wallace recognises the need for some sort of distinction here: there are forms of regret that are more personal and which are appropriately felt by those who stand in a certain relation with the object of regret, yet which are not appropriate for bystanders. Williams offered us a distinction between agent-regret and ordinary regret; Wallace draws the distinction elsewhere, holding that the relevant distinction is between impersonal and personal regret.⁴⁹

What is personal regret? Wallace holds that to feel any emotion one needs to be *attached* to the object of that emotion.⁵⁰ Impersonal regret arises when we have some loose attachment (for example, an attachment to the value of human life in general, or a weak attachment to this person) but no close attachment to the object of that emotion (such as an attachment to my wife).⁵¹ Sometimes events affect *me* or something else to

⁴⁶ Wallace, *The View from Here*, chap. 2.2. For Wallace's scepticism: “it isn't obvious that emotions of retrospective assessment that involve such indexical thoughts really constitute an interesting natural kind of psychological phenomenon.” Wallace, 36. See Holroyd, “On Regretting Things I Didn't Do and Couldn't Have Done,” 406.

⁴⁷ Wallace, *The View from Here*, 33.

⁴⁸ For similar examples, see Wallace, 33.

⁴⁹ Wallace, 41.

⁵⁰ Wallace, 21–28. For more on attachments see Wallace, chap. 2.1. See below 5.5

⁵¹ Wallace, *The View from Here*, 39–40.

which I am (closely) *attached*. In such cases, I am personally involved. Personal regret, as opposed to impersonal regret, arises when we have close attachments to the object of regret, and these attachments justify, and arouse, a regret that is not open to those who lack a close attachment.⁵² Personal regret is broader than agent-regret because we can be personally involved not just via our actions (as in agent-regret), but also in who we are and the situations we face.⁵³ So, Wallace offers in lieu of agent-regret another emotion: personal regret.

Wallace's revisionism: we are personally connected to certain things and this connection colours our regret as distinct from ordinary regret.

Wallace's conception of personal regret nicely captures how there could be various forms of regret, established by various forms of connection, that are not reducible to ordinary bystander (impersonal) regret. A parent whose child is killed can feel a special form of regret because it was *her child*, to whom she is attached.⁵⁴ It is clear that she has good reason to react to this event in a special way: because she has an important connection to her son, it is a personal misfortune for this parent that her son died. Recognising this is a worthwhile addition to any understanding of regret.⁵⁵

Yet Wallace thinks that our agency implicates us in outcomes only when our agency is voluntary: Wallace accepts TIO.⁵⁶ So Wallace does not want the lorry driver to feel a special sort of regret *in virtue of* his responsibility for an outcome. Instead, Wallace thinks that "it is perhaps a personal misfortune for the lorry driver that the child died as a result of his own actions; insofar as this is something that happened to him, he has special agent-relative reasons for regret about the outcome that don't equally extend to uninvolved third parties."⁵⁷ So the lorry driver is connected to the outcome in a way that

⁵² Wallace, 38–40. Wallace is clear that impersonal/personal are on a spectrum, see also Holroyd, "On Regretting Things I Didn't Do and Couldn't Have Done," 406.

⁵³ Wallace, *The View from Here*, 37–38. Wallace takes up Williams's claim that we are agents in a web, supported by what we did not control (Wallace, 37. Citing Williams, "Moral Luck," 29.) But Wallace notes that this runs in two directions: there is outcome luck, and the luck that affect us regardless of action. For a critique of Wallace's account, see Holroyd, "On Regretting Things I Didn't Do and Couldn't Have Done."

⁵⁴ Wallace, *The View from Here*, 42.

⁵⁵ See also Raz, *FNTR*, 235.

⁵⁶ Wallace, *The View from Here*, 40–41.

⁵⁷ Wallace, 41.

a bystander is not, but this is *passive*: killing the child is something that has happened to the driver, the connection is foisted upon him. After all, he killed the child due to bad luck and he had no intention of doing so. Still, he can feel personal regret because he is connected to the death of the child. So, Wallace thinks the driver is connected to the child's death, but this is not through his responsibility as an agent.

We might think that this can help bolster virtue revisionism by providing the link that makes it appropriate for a good person to take responsibility for outcomes she did not intend. In fact, Wallace's revisionism faces the same problem: it isn't clear *why* the driver is connected to the child's death in any way that matters. Wallace thinks that the fact that the parents of the child can feel personal regret shows that personal regret, not agent-regret, is "the more fundamental category of attitudes."⁵⁸ It is our connections, it is what happens to us, that establishes a narrower form of regret. But there are many forms of personal regret and these can be strikingly different.⁵⁹ As Jules Holroyd points out, a road safety campaigner could also feel personal regret at the child's death; yet we would expect this regret to be of a different "kind or intensity to that of the parent or driver".⁶⁰ We cannot just posit that the driver is connected to the child, we need to see *how* he is connected.

Consider *what* connects the lorry driver to the child's death. It can't be some prior connection like love, which is what connects the child's mother in a way that arouses personal regret. Now, it wouldn't be a surprise were the lorry driver to feel personal regret because he witnessed the accident at close hand. His regret would be more personal than that of someone who read about the incident, but his cab-mate or a bystander would have just the same personal connection. Perhaps the lorry driver is concerned by the role that this death will play in "the trajectory of [his] own individual biography".⁶¹ What impact will it have? Well, Wallace thinks that, unlike the

⁵⁸ Wallace, 41.

⁵⁹ Wallace holds that remorse is a subset of personal regret Wallace, 45. Clearly remorse is very different from the mother's feelings.

⁶⁰ Holroyd, "On Regretting Things I Didn't Do and Couldn't Have Done," 412. Holroyd thinks we should doubt that personal regret is the fundamental category. I think personal regret might be a fundamental category, and agent-regret might be a version of it, but the ways in which we are connected to an outcome bring forth vitally important distinctions.

⁶¹ Wallace, *The View from Here*, 40n18.

bystanders', the driver's biography takes "a macabre turn."⁶² This hints at something other than mere proximity, but again raises the question *why* does the fact that "the child died as a result of his own actions" affect his biography?⁶³

It's all well and good saying that the child dying as a result of the driver's actions is "something that happened" to the driver.⁶⁴ But *why* is the driver attached to the unintended consequences of his actions?⁶⁵ Why do we think it happened to *him*? (Presumably we wouldn't talk this way about a bystander.) Wallace doesn't tell us about the nature of the connection involved in the driver's case. The most obvious connection is that one is "causally implicated in something unfortunate through one's agency."⁶⁶ This is the answer I offer—and it is Williams's answer—although I think that this is a particular sort of causal connection.⁶⁷ And I will explain, in chapter 6, *why* this sees his biography take a macabre turn. Wallace doesn't explain *why* being causally implicated through one's agency, or why the fact that the child dies as a result of the driver's actions, gives any form of personal connection that could underpin personal regret or affect one's biography.⁶⁸ Unless Wallace can tell us *what* connects the lorry driver to the child's death and *why* that connection is important, he doesn't provide us with a convincing alternative to agent-regret.

The revisionist needs to offer an account of why we do or should take responsibility for certain outcomes that we did not intend to bring about, or why we thus feel a special sort of regret based on some non-agential connection. But they must do so without appealing to our agency itself, *because* to say that we are responsible for unintended consequences of our actions in virtue of being agents is just to offer the Unintentionalist picture of agent-regret where agent-regret rests on a conception of our agency.

⁶² Wallace, 42.

⁶³ Wallace, 41. Nor does it seem that we can say that the lorry driver has a *project* not to kill anyone (accidentally)—that would just push the question back as to whether this sort of project is reasonable.

⁶⁴ Wallace, 41. see also Beever, "Corrective Justice and Personal Responsibility in Tort Law," 490.

⁶⁵ Note that we can be causally implicated and *not* feel something like personal regret: such as when we take an *external view* on our own action.

⁶⁶ Wallace, *The View from Here*, 40.

⁶⁷ Williams objects to the "happened to" talk, at least insofar as it is supposed to contrast with the idea that he did it: "*What has happened to him, in fact, is that he has brought it about.*" Williams, *S&N*, 70. See also Darin Strauss's account of killing someone: "She was someone that I happened to, someone who happened to me." "Life After Death."

⁶⁸ See Wallace, *The View from Here*, 40–41.

If one does not think that we are *actually* responsible for unintended outcomes (one accepts Intentionalism+TIO), it's far from clear why we would have any reason to act as if we were responsible. On the other hand, if one accepts Intentionalism+SIO but denies Unintentionalism, it's far from clear *why* we are responsible for outcomes if this doesn't stem from our agency; after all, to be outcome responsible simply *is* for this outcome to be ascribable to one's agency, and surely that means that the outcome is ascribed to you due to a feature of your agency rather than some extraneous feature. Of course, this is not a knock-down challenge to revisionism, but it puts the revisionist on notice: they'd better offer a plausible explanation of *why* it is virtuous to feel agent-regret, or of *why* we are, or should hold ourselves to be, responsible. The versions we have encountered so far do not manage to do that. In chapter 5, I suggest the Unintentionalist's explanation is better: the nature of our agency is such that we are responsible for unintended outcomes because, to even achieve intended outcomes, we must exercise fallible abilities that could misfire and bring about these unintended outcomes.

4.5 The Rejectionist approach

Now we move away from revisionism to rejectionism. The rejectionist does not merely deny that agent-regret should have a place in our lives, nor do they try to offer an alternative vindication of why we might hold ourselves responsible; rather, the rejectionist explains why agent-regret *has* a place in our lives—why our responsibility for unintended outcomes seems to be important—before explaining why it *should not have* that place. The rejectionist approach I want to focus on draws on what I will call the debunking argument.⁶⁹ In short, it says that agent-regret and the idea that we are responsible for unintended outcomes is a remnant of past ethical conceptions that we find hard to shake off; in cool reflection, we realise that we are employing something like magical thinking in holding ourselves responsible for outcomes we did not intend. This *explains* why we hold ourselves outcome responsible and feel agent-regret. Yet we also see that we *should not* hold ourselves responsible for unintended outcomes because

⁶⁹ This draws on Roger Crisp's argument in Crisp, "Moral Luck and Equality of Moral Opportunity." Crisp is arguing for "volitionism", the claim that moral judgments should be based solely on our intentions (a form of TIO, applied to morality). But he recognises that often these judgments are affected by results. He wants to explain why judgments seem to be affected by results whilst arguing that they should not be.

the idea that we are responsible for unintended outcomes rests on dodgy foundations: it rests on the magical idea of pollution.⁷⁰

Let's explore the idea of pollution in a little more depth. Past societies have held the idea that a woman after childbirth or someone involved in a killing is polluted.⁷¹ This sort of example is widespread and has a long history: ideas like pollution and the deodand (which we explore shortly) can be found in Greek, Roman, Hebrew, Christian, and Medieval British ethical thought and legal practice.⁷² No surprises, then, if such ideas influence our thinking. I will focus on one form of pollution that we find in a particular historical legal practice, the deodand: an object (or an animal) involved in a death that is then, because of its involvement, given to the family of the deceased, the King, local good causes, or the church.⁷³

The deodand was mostly a practice of *liability*; but this was liability on the basis of an ascription: the deodand must face the sacrifice or be cleansed *because* the death can be ascribed to it.⁷⁴ The deodand—unlike the scapegoat, which bears the cost despite not having occasioned the harm—⁷⁵ is held liable *because* it was responsible for that outcome. I will focus on just one justification of the practice of invoking deodands.⁷⁶ This justification is not acceptable to us; the explanation is “intelligible...[but] it rests on...

⁷⁰ For a discussion of “pollution” and agent-regret, couched more in terms of our associations and entanglements, see Crisp; Blackburn, “Williams, Smith, and the Peculiarity of Piacularity.” For pollution more broadly see MacCormack, “Thing-Liability,” 331–32.

⁷¹ See Crisp, “Moral Luck and Equality of Moral Opportunity,” 12–13.

⁷² Sutton, “The Nature of the Early Law of Deodand,” 10. Sutton provides references to various historical sources, as does MacCormack, “Thing-Liability.” See especially 326–30.

⁷³ On the deodand see Blackburn, “Williams, Smith, and the Peculiarity of Piacularity,” 221; MacCormack, “Thing-Liability”; Macpherson, *Harm's Way*, chap. Four; Sutton, “The Deodand and Responsibility for Death”; Sutton, “The Nature of the Early Law of Deodand.” See also Plato, “Laws,” 873e–74. In Plato's discussion, an animal or object could be “tried, condemned, and banished” at Dodds, *The Greeks and the Irrational*, 223.

⁷⁴ Many accounts of the deodand held that the deodand had to be involved in some *movement*, which suggests that the deodand had to *intervene*; and we find causal language where the deodand has to be the cause of the death or injury. See Sutton, “The Nature of the Early Law of Deodand,” 13–14, 20. What counts as “movement” is quite broad and, at earlier points, included things we might fall off of, see also Sutton, “The Deodand and Responsibility for Death,” 44–45. Sutton also notes that over time the condition of “movement became less crucial”.

⁷⁵ For a brief discussion see Frazer, *The Golden Bough*, chap. LVII.

⁷⁶ There are several explanations of the practice, some of which make sense to a modern ear: MacCormack, “Thing-Liability,” 332ff. See also Sutton, “The Nature of the Early Law of Deodand,” 12. Sutton suggests the deodand is a form of compensation, or a method of preventing retaliation.

intrinsically erroneous, meaningless, or absurd [premises].”⁷⁷ On this sort of explanation, people thought that an object that was involved in a harm required a form of expiation or sacrifice because the object is polluted (and polluting to others), and the sacrifice of the object somehow cleanses it.⁷⁸ The harm, the outcome, is *ascribed* to the object which becomes a deodand, and this ascription is significant *because* it leaves one polluted.

The problem for the Unintentionalist is that there seems to be something eerily similar between the pollution-based story of the deodand and their story of outcome responsibility. In both cases, an outcome—generally an unpleasant one—is ascribed to an object or an agent despite the fact that they did not intend to bring about that outcome.⁷⁹ As Williams put it, we think that when it comes to the lorry driver “there is something special about his relation to this happening, something which cannot merely be eliminated by the consideration that it was not his fault.”⁸⁰ In Roger Crisp’s view: “The special relation in question is most plausibly seen as involving a secularized version of the notion of ritual uncleanness and pollution”, and if we think this is true then this should make us question the basis of agent-regret and the idea that we are responsible for outcomes we did not intend to bring about.⁸¹ After all, despite the long historical influence, we do not think that ideas about moral pollution are reasonable, we think they should be discarded. Much as Anscombe held that if we get rid of God we must get rid of law-driven ethical theory, if we get rid of pollution—as we see that we should—we should get rid of agent-regret and Unintentionalism.⁸²

⁷⁷ MacCormack, “Thing-Liability,” 330. Another “primitive” explanation is that these people feel the need to take revenge on the object, and think that the objects have souls which incur guilt when they harm someone, MacCormack, 330–32.

⁷⁸ MacCormack, “Thing-Liability,” 330–32. This can be bound up with further spooky ideas, such as that pollution is “infectious or hereditary” Dodds, *The Greeks and the Irrational*, 36.

⁷⁹ Adam Smith, in sketching his notion of the piacular—which is similar to agent-regret in many respects—notes that in “the ancient heathen religion,” someone who inadvertently trod upon holy ground became “piacular”. Just as much when we inadvertently harm another, we become piacular. Smith even goes so far as to call Oedipus—a case so often regarded as one of pollution—piacular. Smith, *TMS*, II.iii.3.4. For discussion of this see Crisp, “Moral Luck and Equality of Moral Opportunity,” sec. IV.

⁸⁰ Williams, “Moral Luck,” 28. Cited at Crisp, “Moral Luck and Equality of Moral Opportunity,” 13.

⁸¹ Crisp, “Moral Luck and Equality of Moral Opportunity,” 13.

⁸² Anscombe, “Modern Moral Philosophy.”

Pollution debunking: we think we are responsible for unintended outcomes because of the influence of ideas about pollution. This explains *why* we think we are responsible, but also shows that we are not responsible.

Faced with these thoughts about pollution, the Unintentionalist can't help but feel uncomfortable. There clearly is enough similarity between pollution and being held responsible for unintended outcomes to render the debunking story plausible. Were the debunking explanatory story *true*, then we should abandon the idea that we are responsible for unintended outcomes because we only link these outcomes to our agency because we see these outcomes as polluting.

Rejectionism strikes deep because it also impugns the Unintentionalist's picture of personhood and self-respect. If the rejectionist is right, the Unintentionalist is wrong about agency, thus the Unintentionalist also fails to explain why outcome responsibility is central to our status as persons. The worry is that Williams thought agent-regret showed us something deep about agency and human nature—but if the rejectionist is right, he does no such thing.

Yet it is also important to recognise the limits of this challenge. The debunker does not show that the Unintentionalist account of agency *does in fact* rest on the idea that we are polluted by causal associations. Rather, it shows that the Unintentionalist account *might* rest on a dodgy idea. It allows room for a reply.⁸³ If we show that there is an alternative explanation for why we feel agent-regret and hold ourselves responsible for outcomes in a way that does not involve pollution, we defuse this challenge. The fact that there is a plausible competing explanation for our ascriptions of responsibility for unintended outcomes that *discredits* such ascriptions does not render our ascriptions inappropriate so long as we can offer a competing explanation that *vindicates* these ascriptions.

4.6 Moving forward

In the first part of this chapter, I sketched why outcome responsibility is important to our status as persons and to our self-respect. I suggested above that we are responsible

⁸³ See Crisp, "Moral Luck and Equality of Moral Opportunity," 13.

for outcomes that we did not intend to bring about; further, I have tied this to a view of agency: even when we do not intend those outcomes we are responsible for them because of the nature of agency. The challenges we have met in this chapter all presuppose a central thought: that being responsible for unintended outcomes is *not* central to being an agent. They suppose that we could just as well be fully functioning agents were we not responsible for unintended outcomes. Further, whether rejectionist or revisionist, Intentionalists can make some steps towards accounting for the fact that agent-regret often seems appropriate.

Now that we have seen some ways in which one might challenge the Unintentionalist, we can mostly set the specific challenges aside: our job now is to try to offer an acceptable competing explanation that vindicates our propensity to feel agent-regret, and that bases this in what it means to be an agent. This needs to show that we are indeed connected to unintended outcomes as agents *and* it needs to be a realistic explanation. How to take on this challenge? It should be clear *that* we need to establish a link between agents and outcomes in order for there to be *practical* agents, and this is the role played by the concept of outcome responsibility. Intentionalists and Unintentionalists both accept this. The important issue is *how* we establish this link.⁸⁴ I will argue that the way in which we are linked to the world as practical agents demands that we are responsible for certain unintended outcomes: this is because we are fallible beings who can only make an impact on the world through fallible abilities.

⁸⁴ Perry, "Honoré on Responsibility for Outcomes," 72. Perry offers his account at 74ff.

Chapter 5

Agency, Abilities, and the Unintended

“The mature agent... will recognize his relation to his acts in their undeliberated, and also in their unforeseen and unintended aspects. He recognises that his identity as an agent is constituted by more than his deliberative self.”

Bernard Williams¹

In this chapter, I explain why the nature of our agency leaves us responsible for unintended outcomes. The purpose of this chapter is to establish *that* we are responsible for unintended outcomes. It is not to explore the importance of individual instances of responsibility: as I noted at 4.3.1, it is one thing to establish that we are responsible for unintended outcomes, it is another thing to consider the importance of being responsible for this or that unintended outcome. We come on to this latter point in chapter 6.

In 5.1, I defend the idea that to intentionally bring about an outcome, we must use fallible abilities that may fail to bring about that outcome and might lead to unintended outcomes. In 5.2, I suggest that in order to explain how unintended outcomes arise, we sometimes must appeal to exercises of these fallible abilities, and this leaves us responsible for them *as agents*. In 5.3, I bolster this by reflecting on how a mature agent understands her relationship with the world: the mature agent understands that in order to make any impact on the world she must use these fallible abilities, and she recognises that sometimes her actions lead to these unintended outcomes. So, not only is the nature of agency such that we are responsible as agents for unintended outcomes, but an agent who properly understands her relationship with the world appreciates this. In 5.4, I show how this gets us past rejectionism: instead of relying on a spooky view of pollution, we

¹ Williams, “Voluntary Acts and Responsible Agents,” 32.

can ground Unintentionalism in a plausible understanding of human interaction with the world.

5.1 Agency and abilities

How can we exercise our practical agency and change the world? In 5.1.1, I consider Raz's sketch of an idea (that he does not endorse) that we cannot be responsible for outcomes in the world and consider how we can move past this. In 5.1.2, I introduce a picture of agency that says we can make an impact on the world by using fallible abilities that do not guarantee success. In 5.1.3, I further consider the fallible nature of these abilities. In 5.1.4, I consider authorship.

5.1.1 Being in the world

In *From Normativity to Responsibility*, Joseph Raz sketches, in order to rebut, a way of thinking about our relationship with the world. On this view of our place in the world, being a human in our world is like "being in an alien environment, tossed about on the waves of fortune whenever we venture beyond our thoughts and intentions."² On this picture, we are only responsible for what we absolutely control, but the world is torrid and untameable—it is riddled with luck. Once we step outside our minds, we might be causally responsible for things in the same way the officer (from 2.3.1) is thrown onto the button by the wave, but we never have absolute control over any element in the world, and thus never exercise our agency.³

On this picture, things happen, and sometimes things happen through us, but this alien environment is untameable and unmanageable. We are not responsible for what happens in it. This picture clearly corresponds with the contribution-based picture, the picture Williams took as his target in "Moral Luck", that we set aside in 4.1.⁴ According to it, anything that is not under our absolute control is not our responsibility. It sees stepping out into the world as taking a *gamble*, and when we gamble we are not

² Raz, *FNTR*, 237. See Raz, chaps. 1 & 12 & 13; Raz, "On Normativity and Responsibility." See also Herstein, "Responsibility in Negligence."

³ Raz, *FNTR*, 241. See Nagel, "Moral Luck."

⁴ Raz, *FNTR*, 237.

responsible for what results, rather Lady Luck, or Fortuna, or Nature is responsible. The gunman pulled the trigger, but divine providence guided the bullet.

In chapter 4, I suggested that we should set aside such views and instead focus on views that do allow us to be responsible for at least some outcomes in the world. But how should we picture the world if we do not see it as tossing us about on waves of fortune? I want to start by following Raz and considering how we can be responsible for outcomes that we *intended* to bring about. On this picture of the world, although we might sometimes be buffeted by waves that we cannot control or resist, we can also surf these waves to achieve our own ends.⁵

Raz gives us a useful way of understanding how we can be responsible for outcomes in the world without just seeing ourselves as buffeted around by the waves of luck. We need not think that a lack of absolute control undermines our responsibility.⁶ After all, we can distinguish between “playing roulette” and “cooking, eating, shopping” and other such activities.⁷ The first is a gamble, the latter are not, even though they depend on some luck for their success. Even though these activities require luck, they also require judgment over when they will (most likely) succeed, and the exercise of various skills.⁸ Although these actions depend “on matters over which we have little influence [they] are not gambles.”⁹ The fact that there are certain matters involved over which we do not have influence does not mean that the action, or the occurrence of the outcome, is itself outside of one’s control; the fact that certain matters are down to luck does not mean that I am not responsible for that outcome.¹⁰ The point is simply that just because luck

⁵ I employ this metaphor in Wojtowicz, “Agent-Regret and Sporting Glory.”

⁶ Raz, *FNTR*, 237. See also Michael Zimmerman’s discussion of “restricted control” at Zimmerman, “Luck and Moral Responsibility,” 376–77. Raz notes this influence at Raz, *FNTR*, 241n24.

⁷ Raz, *FNTR*, 238.

⁸ Raz, 238. Duff also thinks we can be responsible in such cases when our skills give us “greater control over the factors”, whereas a gambler is not responsible, see Duff, *Intention, Agency and Criminal Liability*, 56–57.

⁹ Raz, *FNTR*, 237.

¹⁰ I tend to eschew “control” because it leaves us open to confusion with the contribution-based picture. But note that Stephen Perry thinks that “the ordinary concepts of control and responsibility that are at work here take into consideration the fact that other factors besides my efforts are in play, and that I therefore cannot guarantee my own success.” Perry, “Responsibility for Outcomes, Risk, and the Law of Torts,” 95. That is to say, Perry thinks an ordinary conception of control and responsibility allows for this luck. I think Perry is right.

is involved, or because something is outside of my *absolute* control, it does not mean it is not *mine*: my responsibility, my action, an exercise of my agency.¹¹

That is because in such situations the occurrence of these outcomes depends to some degree, and possibly to a very large degree, upon *me*. We can better understand this influence if we take a practical example. Take baking a trout. I often succeed in baking trout, but luck is certainly involved. Sometimes, I can't bake a trout. For instance, the oven isn't working. In such cases, I don't even try to bake it; I'll freeze it for another time or do it in the pan. And it's always possible that whilst cooking it I fail. Perhaps an emergency distracts me and the trout goes up in smoke, or the power goes out and I'm left with lukewarm fish. It's also possible that I merely forget about it or doze off. My being able to serve a baked trout depends upon luck both in terms of having the right opportunities (the working oven) and on several factors that come into play once I have started (not forgetting, etc.). These aspects are not (entirely) within my control, yet it certainly is not merely a successful gamble that I successfully bake a trout. On this picture of the world we are not tossed about on the waves of a maelstrom, with the world tossing us from side to side. We live in a world of waves—the world is certainly not under our full control—but some of these waves help us achieve our ends.

5.1.2 Abilities and responsibility⁹

I take it that we can see a distinction between a gamble and baking a trout, and that a key factor is that the well-cooked trout in some way stems from what I do: the trout gets baked because of the steps I take. But we need a clearer idea of how these two cases are distinct, and *why* the successfully cooked trout is ascribable to me.

By “gamble” we should have in mind fair bets about outcomes that the gambler is not involved in as a participant. Further, let's stipulate that this is a random gamble, like betting on the Grand National and choosing the horse with the funniest name. When we gamble, our agency may be implicated at some level; for instance, we place a bet. Jan the gambler does two things: he stakes his position and then he lets things play out. But whether, say, Numbersixvalverde wins the National is based on how things work out in

¹¹ See also Duff, *Answering for Crime*, 2009, 63.

¹² I return, at 5.2.4, to the similarities and differences between my account and other similar accounts.

the world; it is independent of Jan's placing the bet. Although Jan's agency features in placing the bet—and we will return to this just below—it doesn't feature in whether the outcome he has bet on arises: it doesn't feature in whether Numbersixvalverde wins. We do not attribute Numbersixvalverde's victory to Jan.

But consider the case of baking a trout. I don't just state what I hope will happen, and then hope that it happens. Rather, *I take constructive steps* to a well-cooked trout. We can also understand broadly this in terms of *abilities* or *skills*.¹³ For instance, I have the ability to cook trout that is constituted by the fact I can take a range of steps that contribute towards the trout getting cooked properly.

An agent has an **ability** to bring about an outcome if she can take **constructive steps** towards that outcome.

Because these steps contribute towards that outcome, the outcome can be ascribed not just to luck—although we will of course want to allow that luck has its influence—but to the agent who takes those steps. And because the person *intentionally* exercises these abilities, we can ascribe the outcome to her not just as a person but as an agent (I will say more on this in 5.2.2). One doesn't just hope for the outcome, one takes steps that help to bring it about.

What do I have in mind with these constructive steps? Examples will help. When it comes to the trout, I slice the skin to ensure it cooks more evenly, I season it to ensure it tastes good, I put some foil over it if it starts to look a little dark (because these steps can be reactive, too), and so on.¹⁴ I don't just select an outcome and hope for it; rather, I set myself to cook the trout, and by taking certain steps (or exercising my abilities) I make it more likely that the trout gets successfully cooked.¹⁵ The trout is nicely cooked *because* I took these steps; we can see *how* these steps make the outcome more likely: putting foil on the trout helps to keep direct heat off of it, slicing the skin helps it to cook more

¹³ Sometimes it will be a stretch to describe someone as having or exercising an ability or a skill—but skills and abilities are useful ways of thinking about our main examples.

¹⁴ Raz points out that I must hone these skills, and use them appropriately. See Raz, *FNTR*, 238.

¹⁵ It need not be more likely *overall*. Perhaps my father is better at cooking trout, and we have a better chance of a good dinner if I let him cook it; but given I intend to cook the trout, the steps I take make it more likely we have a good dinner. See Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 123n25.

evenly. There is an explanatory link between the steps taken and the outcome arising. Because I decided to cook the trout *and* took these steps (which made a well-cooked trout more likely given my decision), we can ascribe the successfully cooked trout not just to luck or mere events, but to what I have done as an agent.

When we ask why the trout turned out well, when we set ourselves to a causal investigation, we won't merely cite the way the world goes, we will cite the *steps I have taken*, and this will be agential because I have taken such steps intentionally.¹⁶ Thus there is no reason to think these outcomes are caused merely by the world or luck.¹⁷ We can resist Nagel's thought that agency gets "swallowed up by the order of mere events."¹⁸ Instead, we can grant that although we might need luck on our side for these outcomes to arise (more on this in 5.1.3), the agent's contribution cannot be reduced to a mere event. Even if an agent's intervention is in some sense an event, it is no mere event: it involves paradigmatically agential elements, namely the author's intentional activities. To swallow this up into the order of mere events is to ignore this paradigmatically agential element.

But when Jan places a bet on Numbersixvalverde winning the National at five-to-one, things are different. He has an ability to place the bet. He can walk up to the counter, fill in the form, and hand over the slip. He is responsible for placing the bet. But is Jan responsible for his *victory*? Is he responsible for having an extra £50 in his pocket? I want to suggest not.¹⁹ (I expand this at 5.1.3 and 5.2.3). The point is that there's nothing Jan can do to influence *winning* the bet. He can place a bet, but that is not an ability to win; Numbersixvalverde's speed in the race, rather than any ability on Jan's part (supposing the bet was random or on a hunch), determines whether he wins his bet.

¹⁶ I only address individual responsibility; questions of how we can be responsible as part of a group will turn around group abilities and group membership.

¹⁷ I assume that we can get past problems of circumstantial luck and presuppose an agent with certain abilities that are hers even though she was not in total control of their formation.

¹⁸ Nagel, "Moral Luck," 36.

¹⁹ Raz, expressing this in terms of what we can *do* intentionally, thinks we cannot intentionally win such a gamble: Raz, *FNTR*, 241. See also Duff, *Intention, Agency and Criminal Liability*, 56–57.

Whether Jan wears his lucky socks or crosses his fingers makes no difference: he doesn't take constructive steps towards winning, he takes steps towards placing the bet.²⁰

This contrast with Jan reinforces out an important point. When I cook a trout, I'm not just responsible for, say, sticking the trout in the oven in a way akin to handing a slip to the bookie. I'm responsible for the fact it was well-cooked. This is because there is an interaction between my abilities and the outcome. Sometimes this can be dynamic, for instance I can *respond* to how the trout is cooking; but that is a separate point. The point here is that Jan just places a bet, it's not like he places a bet in a specific way that makes him more likely to win.²¹ The steps I take do not just start off a process, rather they connect to the end result.

Still, Jan's exercise of his abilities does seem to play some role in explaining his victory: after all, he wouldn't have won had he not placed the bet. Let me further nuance my claim: one's abilities can play *some role* in explaining an outcome without being sufficient to make one responsible for that outcome.²² Jan's abilities did contribute to some extent to his victory: he only won because he placed the bet. Yet when we want to explain why he won, his placing the bet seems insignificant when compared to Numbersixvalverde's running the race. Not so when I bake a trout: when we want to explain why dinner was properly cooked we must appeal to my abilities. This fits with what I said about causation at 2.3.1: *whether* we see some action as a cause and (as we can add here) *the extent to which* it is a cause will depend upon the *significance* that action seems to hold in explaining why the outcome arose; further, this may be context-dependent, with factors appearing more or less salient depending upon the sort of outcome. What I want to make clear here is that even if we might say that one's abilities played *some role* in the outcome arising, unless this is significant enough we will not say that one is *responsible*. (Note that this allows that sometimes more than one agent makes a significant contribution: sometimes more than one person can be responsible.)

²⁰ There are skilled gamblers who bet on form. Such gamblers might be responsible for their victories, and my account of abilities, and the case of Pirlo discussed below, should allow us to account for this.

²¹ True, a skilled gambler also can only place a bet, but the skilled gambler only places certain bets (and whether she bets is related to the likelihood of success)—so the skilled gambler also bets *in a certain way*.

²² Raz thinks the distinction between whether one is responsible or not is “soft” Raz, *FNTR*, 237–38. I agree, and sometimes it won't be clear whether or not someone is responsible—and no theory should get us past that. At 7.1, I offer further considerations relevant to this paragraph.

I hope it is clear that there is a relevant difference between these cases. I do not aim to offer a fully fleshed-out account of abilities and constructive steps, nor of their relationship to outcomes and responsibility. To that extent, I leave my account undeveloped and ecumenical. Yet I hope that the difference between baking a trout and betting on Numbersixvalverde is clear. I am responsible for the baked trout, Jan is not responsible for winning the bet, and this is because of the role that our abilities play in explaining why these outcomes arise.

Before moving on, it is important to address a misunderstanding about how these steps make an outcome more likely. One might be tempted to think that an agent is responsible proportionate to how likely, or how much more likely, their skills make the outcome. I suspect that this is not an illuminating way of thinking about things. If a sniper has a 50% chance of hitting his target, then he will only hit in fifty out of a hundred possible worlds, but *in that world where he does hit the target* it is far from clear that he is only 50% responsible (whatever that means). Rather, the outcome came about *because* he fired in this manner. This presupposes that luck cooperated with him, but it would be odd to think of luck being also responsible. Perhaps this is because, as we discussed above at 2.3.1, in our causal inquiries we often leave certain factors as background conditions: in hitting the target we just assume that, say, the wind was normal and did not, as it would in one of those hundred possible worlds, blow the bullet off course. What's more, although we will grant that other factors had to cooperate, this does not mean that we cannot say the sniper is responsible for the death. I take it that there are interesting questions surrounding our abilities, the probabilities they lead to, and how we divide up responsibility; but the important point for us is that abilities let us attribute an outcome not just to the workings of the world but to an agent, and this is because the abilities contribute to the outcome arising—they contribute sufficiently much for us to say she is *responsible*.

5.1.3 Fallibility

To provide a more plausible picture than the contribution-based account that sees us as pushed around by the waves of luck, which we set aside, our picture needs to be realistic. I will discuss this realism in more depth at 5.4, but I take it that it would be unrealistic to think that our abilities grant us omnipotence over any aspect of the world. My approach is not to deny that we are in a world beset by luck, but to offer a more plausible

picture of how that luck interacts with our agency. I take it that *all* of our abilities, all of the constructive steps we might take, are *fallible*. It is never true that I can exercise my ability and guarantee that the outcome will arise. Sometimes I will be unable to exercise my ability, other times I will exercise it and it will misfire because our abilities do not work every time, or it will be thwarted by a stroke of bad luck extrinsic to the operation of that ability.

All our abilities are **fallible**.²³

This recognition of fallibility, combined with our understanding of abilities, provides the basic account of agency which fits with a picture of the world in which we are beset by luck—we must deal with those waves, we cannot just shape the world to our will—but which allows for us to make an impact on the world. When I have an ability, I *can* bring about that outcome; perhaps I cannot bring it about in every case, but in similar cases I have taken these steps (perhaps in the past, perhaps in other possible worlds) and they have produced that outcome.²⁴ Rather than thinking that we are thrown this way and that and have no influence, we can instead see that we are able to change the world through our abilities that let us shape the world in this way or that. Still, we can admit that we do not have total control over the world, since that would be unrealistic.

But how fallible can our abilities be whilst still leaving us authors of the outcomes that arise when they succeed? It is important to note two things. Firstly, I do not suppose that we require a high level of success in order to author an outcome. This distinguishes my account from Raz's. We come on to this again at 5.2.4, but Raz thinks that to be responsible, you must have a near-certain chance of success. I disagree, because I think

²³ One problem concerns how we construe an ability. Is it an ability to ϕ that succeeds 98% of the time, or is it an ability to ϕ 98% of the time? See Herstein, "Responsibility in Negligence," 179–84. Herstein thinks the latter is right; according to this approach if one fails 2-in-100 times one is not responsible for those two failures because one only has the ability to succeed 98% of the time. But Herstein views the ability as binary and in a vacuum. Either one scores the free-throw or one does not. But this is underdeveloped, because *not* scoring a free throw, like not scoring a free kick, has an impact on the game. Our abilities have side-effects and our failures make an impact on the world, so even if one thinks that we only have abilities to, say, succeed 98% of the time, one must also have a view on how the 2% of failed cases relate to one and one's ability. See below 5.2.

²⁴ "Can" is indexed to types of outcome or types of action, rather than to specific instances; to say I can bake trout is not to say that in this very instance I will succeed, but to say that I will succeed in certain cases. See Honoré, "Can and Can't"; Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 87; Perry, "Honoré on Responsibility for Outcomes," 78–79; Raz, *FNTR*, 246–47.

that to understand our responsibility for outcomes in the world, we need to understand how we can be responsible even for unlikely outcomes. To my mind, a footballer is responsible for scoring a free-kick even though it was unlikely that he scored.²⁵ Secondly, I reiterate that I do not just base authorship on the probability of success. Rather, what is important is the *interaction* between our abilities and the outcome arising.

Let me illustrate this by comparing a footballer scoring a free-kick with Jan's bet on Numbersixvalverde. Jan had a one-in-five chance of winning the bet. Andrea Pirlo was a wonderful free-kick taker, yet he would score no more than one-in-five of his attempts at goal.²⁶ Still, it seems to me that when he succeeded, we want to ascribe the outcome of the ball going in the net to Pirlo *qua* agent, such that we can say Pirlo scored the goal. But he is no more likely to score than Jan is to win, and I have said that Jan is not responsible for his victory. So why is Pirlo responsible for scoring but Jan is not responsible for his victory? Isn't there a sense in which they both do all they can do: Jan places the bet, Pirlo kicks the ball?

Much as I did not *just* put the trout in the oven, I did so in a way that helped to ensure the trout would cook well, Pirlo does not just kick the ball. Although we should admit that he needed some luck—more luck than I need in baking a trout—the steps Pirlo took contributed to scoring, in a way that Jan's steps did not contribute to winning. For instance, Pirlo adopted a specific technique that involved hitting the ball with only the first three toes and doing this made him more likely to score.²⁷ Pirlo's abilities do not just let him kick the ball—they let him kick the ball in a particular way that causes it to move this-way-or-that. Although the rate of success is low, his success is, to a significant extent, down to his own contribution. Because his steps were constructive to the end of scoring and were a significant factor in explaining the goal, we ascribe scoring to his agency.

²⁵ I discuss this in more depth in Wojtowicz, "Agent-Regret and Sporting Glory."

²⁶ Some statistics suggest that players score with attempts direct from free-kicks 7.5% of the time: "What Are Set Pieces in Soccer, and Why Are They so Crucial in 2018 World Cup? - The Washington Post." Miralem Pjanić, at one point, had a rate of 18.4%: "10 Players with the Highest Free Kick Conversion Rate."

²⁷ See Pirlo and Alciato, *I Think Therefore I Play*, chap. 16.

Here is one further, related, thought that might motivate the distinction between the gambler and the responsible agent, even when skills are highly fallible: although Jan has a one-in-five chance of winning, that is independent of anything he does in placing the bet. His lucky socks make no difference. But the chance of most of us scoring a free-kick is pretty small. Pirlo's skill *makes it such* that he has a one-in-five chance of scoring (as opposed to a one-in-fifty chance if you or I have a go).

Still, a one-in-five chance would be a terrible chance of successfully boiling an egg; we might deny that someone who can boil an egg only one-in-five times is responsible for their successful supper. Quite right, too: all I want to point out here is that a process can be highly fallible whilst still counting as an ability. How likely the chance of success must be in order for that to count as an ability will depend on various features and will be context-dependent (as noted above). Whether I am able to score a free-kick or cook an egg will depend on whether my steps increase the chance of success, but the requisite chance of success will vary depending on the task at hand. If I do have such an ability, I can be responsible for the outcome arising. I hope this section has further clarified this.

5.1.4 Authorship

So far, I have only discussed *intended* outcomes. It is vital to recognise that any account of responsibility for intended outcomes also needs to pay attention to *how* we are responsible for outcomes; as we saw in 2.3.1, accounts of our responsibility for intended outcomes need to establish a connection between the agent's intention and the outcome, otherwise cases arise where the agent intends the outcome and it arises, but it doesn't arise because of the agent. The abilities account is an account of when these intended outcomes can be ascribed to an agent, of when they arise *because* of the agent and her intention. Abilities let the agent not just have an intention but set that intention into motion so that she can change the world. As Ulrike Heuer puts it: "without them, no forming of an intention or reasoning what to do can achieve anything."²⁸

Given our understanding of abilities, we can see how agents can, having formed intentions, achieve things. What's more, in the cases we have discussed, the outcome

²⁸ Heuer, "When Things Go Wrong: Responsibility for Failure and Negligence," 21.

can be ascribed to her as an agent *and*, because she intended to bring about that outcome, it can be further ascribed to her intentions (or to her desires, or to her deep self). In such cases, the outcome arises because of her exercise of her abilities, *and* the outcome somehow manifests her intentions, her deep self, etc. Such agents are not just responsible for outcomes, they *author* them:

When an agent is an **author**, she does what she intends, expresses her own values, or (at the very least) she does what she has in mind.

It is important to bear in mind that authorship in this sense is a thicker variety of outcome responsibility: she *is* responsible as an agent—that outcome can be ascribed to her agency—but she is also responsible as an author (a valuer, etc.). This construal is broad to be ecumenical over *what* deeper thing is responsible.

I will not deny that there is an important connection between an agent, her desires, values, or intentions and the outcomes she creates in the world; and I think it is obvious that this connection is very important.²⁹ I also allow that we are responsible for a variety of outcomes yet I am “most fully the agent of, and thus most fully responsible for, [outcomes] which I bring about intentionally”.³⁰ And I grant that conduct being attributable to an agent’s core values (etc.) makes them “an agent in a strong sense, an author of her conduct, [who] is in an important sense answerable for what she does.”³¹ My point, developed in the rest of this chapter, is that this strong or full type of agency—the sense involved when we author the world in line with our intentions or our desires—is not the only important connection between an agent and outcomes. I will deny that on the one hand we have mere causal responsibility or mere involvement where we are tossed about by the waves of the world, on the other we have full-blown authorship, and there is nothing in between. My argument will run from the idea that in order to make sense of our responsibility for intended outcomes, in order to make sense of our authorship, we must already grant that we are responsible for unintended outcomes.

²⁹ Williams agrees: Williams, “Practical Necessity,” 130.

³⁰ Duff, *Intention, Agency and Criminal Liability*, 99. I suspect fullness is a spectrum; for instance, Williams’s thoughts on fullness (at Williams, “Moral Luck,” 28.) suggest that the driver’s agency is less full than someone who acts in ignorance, and both of these are presumably less full than someone who acts to intentionally achieve a particular outcome.

³¹ Watson, “Two Faces of Responsibility,” 229.

This is because our fallible abilities leave us responsible for certain unintended outcomes, and *agency* is based on these fallible abilities.

5.2 Unintended outcomes and abilities

I have argued that we can be responsible for outcomes, and we can be authors of those outcomes, in virtue of the fact that we have certain fallible abilities. But why would it be the case that “if one attaches importance to the sense of what one is in terms of what one has done and what in the world one is responsible for, one must accept much that makes its claim on that sense solely in virtue of its being actual.”³² The Intentionalist can admit that there is something that makes its claim on us solely in virtue of being actual: that is, the intended outcome that arises (as with all exercises of our agency) partly due to luck. We are agents responsible for certain outcomes in the world only because they do actually arise, and whether they do actually arise is not fully in our control—it is not the sort of thing that happens by *fiat*—thus *what* we are responsible for depends not only on our intentions but also on the outcomes arising; our responsibility depends on the actual. But Williams clearly meant more than this. The cases he discussed did not just involve the idea that sometimes we need luck in order to bring about the outcomes we intend; he focussed instead on cases where something we did not intend arose because of what we did. Granted that agency involves abilities, and setting oneself to achieve an outcome, why should we grant that the nature of agency itself leaves us responsible for such unintended outcomes?

I will now argue that the abilities-based picture of agency tells in favour of Unintentionalism. I start in 5.2.1 by sketching the basic claim: that when I intentionally put my abilities into play I am responsible for the outcomes that arise, including unintended outcomes, and that is because the fact these outcomes arise can be traced to my agency and my intentional exercise of certain abilities. This is just what it means to be outcome responsible. In 5.2.2 I show that we should still be regarded as outcome responsible *as agents* even when we did not intend to bring about these outcomes. In 5.2.3 I explore how this relates to causation. In 5.2.4 I compare my account with several

³² Williams, “Moral Luck,” 29–30.

others. In 5.3, I move on to bolstering the basic claim, and to considering our self-understanding as agents.

5.2.1 *The basic claim*

The basic idea is simple. Imagine that someone sets off to author some change in the world: Maddie wants to carry the vase safely across the room, the driver wants to get to the depot. But, in exercising their fallible abilities, they fail to bring about the intended outcome. Instead, some other outcome arises. In our cases, the vase smashes and a child dies. How are we to regard these outcomes? Authorship is not at issue, because there is no intention (or desire, or value) that corresponds to the outcome that arises. Yet it also seems wrong to think of these agents as mere objects blown about by the waves of fortune. In such cases we are not like the officer who is literally tossed by waves onto the button that fires the torpedo to sink the *Bismarck*. It would be misleading to think of us as potential agents who try to act but instead have all the agential character of what we have done “swallowed up by the order of mere events.”³³ Surely when Maddie tries to carry the vase and, instead of succeeding, she drops it, this doesn’t just result from the world going about its causal practices, somehow operating through Maddie; rather, it results from Maddie *deciding* to exercise her *ability*... and failing. Still, *Maddie* has intervened in the world, just not in the way she wanted. It isn’t just that Maddie intervened, rather *Maddie as an agent* has intervened. The outcome arose because she exercised her powers as an agent: she had an intention, and because of this she set to using her abilities that are her only way of realising such intentions.

The **basic claim**: an agent is responsible for an outcome when the outcome arises because of her intentional exercise of a fallible ability.

On this picture, agents *intervene* in the world through their exercise of a fallible ability, it’s just that sometimes this fallible ability misfires and leads to some unintended outcome. The agent causes the unintended outcome through intervening via her ability. Thus, the Unintentionalist is right: the nature of our agency does leave us responsible for unintended outcomes because we can only *be* agents through fallible abilities, and

³³ Nagel, “Moral Luck,” 36.

because we exercise our agency through these fallible abilities we are, in virtue of the nature of our agency, responsible for the unintended outcomes that may arise when we try to achieve things.

The problem for the Intentionalist is that in order to be responsible for intended outcomes in the world, we need to make an impact on the world. But the only way of doing that is through our fallible abilities. Of course, the Intentionalist might try to deny that agency (as opposed to authorship) matters, or they might try to deny that outcome responsibility is any real sense of responsibility. But the basic problem is that if they want to do this they need to give an explanation of why our agency is swallowed up in the order of mere events when it comes to unintended outcomes but is not when it comes to intended outcomes. And they need to allow that we exercise our agency when we realise intended outcomes because Intentionalists are concerned not just with the quality of our intentions but with how we manifest them. I can explain the added importance we attach to authorship—manifesting our desires is important—but I do so without denying that our agency is powerful, important to us, yet fallible. My Unintentionalist account pays heed to the impact that our agency can have on the world. The Intentionalist seems to underplay the importance of *agency* by putting so much stress on authorship.

The basic claim also allows the Unintentionalist to offer a more nuanced view of failures. The Intentionalist account can make sense of our failures in our intentions, and in our selection of certain abilities such as when we select an ill-suited ability. That is because the Intentionalist account can say it is bad to intend to build the world's tallest statue (it shows some aretaic failing of being vainglorious); and it can say that it is a bad idea to try to build the world's tallest statue out of cake (that is a terrible means to adopt: cake is not structurally sound). Further, the Intentionalist account can make sense of the idea that you have failed to achieve something since it can say you are responsible for the desired outcome only if the desired outcome arises; if you intend to bring about some outcome and the outcome cannot be ascribed to you then you have failed. None of this requires positing that the agent is responsible for any unintended outcomes.

But can the Intentionalist make sense of the variety of ways in which we can fail in the execution of our intentions? There are different kinds of failure. As we saw in 2.2, much as an earthquake that kills lots of people is worse than one that does not, different

actions, and one's responsibility for different outcomes, can be better or worse. Chipping the vase slightly is better than smashing it to smithereens; the difference between Pirlo hitting the wall and the ball going out for a corner or blazing the ball 10-feet over the crossbar can be important, not least for the shape of the game. (We say things like "He may have missed, but he's won them a corner.") But how do we make sense of the difference between these forms of failure, of the ways in which our *agency* might fail? One might just appeal to the different states of affairs and suggest that Pirlo or Maddie feel worse because their ordinary regret is worse when the outcome they bring about is worse. But that doesn't seem right. Surely *Maddie's failure as an agent* is worse when she smashes the vase than when she merely chips it. She did worse as an agent—albeit through no fault of her own. In order to account for this, we need to attribute the outcome to Maddie and we can't do this if we just focus on what she intended. The basic claim lets us say that Maddie is responsible for smashing the vase because she picked up the vase trying to exercise her ability to carry it safely, and because of this the vase smashed. She failed *by* being responsible for smashing it (or *by* being responsible for chipping it). Thus, the Unintentionalist can make sense of the variety of ways in which we can fail.

5.2.2 Agency

It is important that we make clear how this picture is *agential*. We have plenty of non-agential abilities (reflexes, being able to digest, etc.) and stones and spiders are also "able" to do things.³⁴ Our focus is on agency and the ways in which one might be responsible for an outcome *as an agent*. Many of the abilities discussed above will be physical skills (although not all, since some will be abilities like planning); were they mere bodily reactions, we would attribute outcomes not to my agency but to my body. Much as when the officer is thrown against the button, if my hand just starts to knit or if I wake up having been sleepwalking and find that I have been knitting then although we might attribute the outcome to me as a person or as a body, we cannot attribute it to my agency.³⁵ Although we may be responsible in some way or another for such outcomes,

³⁴ Thank to David Owens for the example. Heuer offers a similar problem, and a similar response, at Heuer, "When Things Go Wrong: Responsibility for Failure and Negligence," 27–29.

³⁵ Note that Williams thinks sleepwalking and hypnosis are both forms of (intentional) *action*—albeit somewhat defective ones: see my chapter 1 note 51, chapter 2 note 40. I beg to differ: it's far from clear

intended or not, the basic claim restricts itself to when an agent intends to do *something*: I set myself to achieve that outcome, and I exercise my abilities to take these steps to increase the likelihood of that outcome arising. I intend something, and then I exercise my abilities. This explains why it is my *agency* that is implicated.³⁶ After all, it is plausible to hold that our intentions are paradigmatically agential elements and, as I noted in 2.3.1 and just above in 5.1.2, we are resistant to the idea that this can be reduced to a mere event.

This gets us past another worry that might arise out of our discussion of deodands from chapter 4. The deodand is not sentient, or at least not human.³⁷ If we ascribe outcomes to persons even when they do not intend them, we threaten to remove their mental lives from the question of responsibility and make them into something more like a *thing*.³⁸ We are responsible in the very same way a “mindless instrument” is responsible.³⁹ Humans are turned from persons into objects.⁴⁰ As Sandra MacPherson puts it, this mindless responsibility gives us “less-than-agentive culpability”—but it would presumably also be less-than-agentive liability, answerability, and ascribability.⁴¹ It would reduce outcome responsibility to something closer to metaphysical causal responsibility. Yet our responsibility in such cases is *not* mindless: after all, we are only responsible *as agents* when we intend *something*.

The basic claim also helps us see why SIO—the view that we are responsible for an outcome so long as we are doing something voluntarily, that we saw Davidson, Honoré, and Williams all held—is compelling. As I noted at 2.3.1, there does seem to be a difference between an officer who is writing a letter and is then thrown by the waves into the button, and an officer who presses the wrong button. The first officer might be doing

that Lady Macbeth really acts intentionally as she sleepwalks, although Williams says it is “beyond dispute” that this can be described with the language of “purposive action” Williams, “The Actus Reus of Dr. Caligari,” 99. Williams cites, in support, Hart, *Punishment and Responsibility*, 109. But Hart adds that we qualify such claims with “unconsciously”, “in her sleep” etc.

³⁶ To broaden my account to omissions (etc.), we could expand this such that an agent is responsible for an outcome if she *could have* intentionally used her abilities. The driver’s cab-mate isn’t doing anything but *could have* done something.

³⁷ Macpherson, *Harm’s Way*, 44.

³⁸ Macpherson, 43–44.

³⁹ Macpherson, 64. For more on “the superfluity of the mental life” (138), see Macpherson, 16, 43–44, 138–45, 187–88.

⁴⁰ Macpherson, *Harm’s Way*, 159.

⁴¹ Macpherson, 137.

something intentionally, like writing a letter, but his intentional doings are not causally relevant to the *Bismarck* sinking.⁴² He might as well be treated as a mindless object. But the second officer had an intention and set about using his abilities to realise that intention, *this* explains why the *Bismarck* sank. Our pictures of intentionally-exercised abilities accords with this. In one direction, intentions are paradigmatically agential so help to carve out the agential as opposed to the merely bodily; SIO pays heed to the agential/bodily distinction. In the other direction, in order to do anything intentionally we must use fallible skills and in acting we run the risk of bringing about other outcomes, so our agency will figure in explaining why many outcomes have arisen even if we did not intend to bring about such outcomes; SIO pays heed to the fact that we are fallible and can make an impact on the world despite intending to bring about something else.

5.2.3 Causation

It is also important to recall that outcome responsibility is a form of causal responsibility, but this ascribes an outcome to one's agency *and* this is a form of causal responsibility that is more limited than the causal responsibility we find in metaphysical causal responsibility. As I said in 2.3.1, following Honoré, I suppose that outcome responsibility attaches to a more limited variety of causal attribution that lines up with the attributions ordinary people might make. So, the "because" in the basic claim—that an agent is responsible when an outcome arises because of her intentional exercise of an ability—is not the because of but-for; rather, it means that, given the ways in which we ordinarily might make our attributions, we will attribute the outcome to, say, Maddie's action.

Maddie's action *explains for us* why the outcome arose. It is important to consider what impact the agent's exercise of her ability has on the world. Clearly a good explanation of why the trout burnt to a crisp is that I tried to cook it. Still, because we deny simplistic but-for accounts, the fact that you are responsible for some outcome does not mean that you are responsible for other outcomes that follow from it. For instance, I have said that the guard in Palsgraf was responsible for Palsgraf's injuries; but at some point this

⁴² The officer sitting in that place, or being in the room might be causally relevant, and if we attach importance to his doing these things intentionally, perhaps we can leave him responsible for the sinking of the *Bismarck*.

responsibility runs out: Palsgraf's grandson found that his family name brought plenty of amused reactions from interlocutors but the guard bears no responsibility for this.⁴³ At some point, we take certain actions as background conditions, and they lose any explanatory power: we look instead to the fact that his grandmother was involved in a famous court case, and the guard starts to drop out of the picture.

Likewise, it strikes me that Jan was not responsible for winning his bet.⁴⁴ One might think that what I have said at 5.1.2 is compatible with Jan being responsible for the victory, just not as an author. Yet Jan not only fails to author his victory, he is also not outcome responsible for it. Why? Because although the outcome would not have arisen had he not exercised his abilities—he would not have won any money had he not made the bet—his exercise of an ability doesn't carry any significant explanatory load in explaining his victory. Yes, he intentionally placed a bet, but when we ask why he won, his intentional purchase of the ticket seems to fade into the background:⁴⁵ he won because Numbersixvalverde won the race, not because of any of his abilities. (This is even clearer with lottery cases and long shots: someone who buys a lottery ticket or bets on Leicester City winning the Premier League seems to play too small a role in *winning* the bet, although we recognise that but for placing the bet they would not have won, we do not think the victory can be ascribed to them.)

This is not to say that Jan's abilities don't figure *at all* in our explanations; after all, I allowed above that one's abilities can play some role without one being responsible for an outcome. The point is that Jan a *placing a bet* doesn't contribute enough to his winning, at least compared to Numbersixvalverde's victory. So, we do not ascribe the outcome to him, we do not think he was outcome responsible. This is further borne out when we consider the ways in which we might apply answerability and liability to his case. As I made clear in chapter 2, outcome responsibility is distinct from answerability and liability, but we can be held liable and answerable for bringing about certain outcomes. We can hold Jan answerable for placing the bet and may blame or praise him for doing so; further, we can hold him answerable for how he uses his money, and

⁴³ Roberts, "Palsgraf Kin Tell Human Side Of Famed Case."

⁴⁴ He nonetheless *wins*, but we can do things without being responsible for outcomes (e.g. dying or breaking a leg).

⁴⁵ See 2.3.1

praise and blame him for how he uses it. But would it make sense to hold him answerable for winning, or to praise or blame him for winning? I don't think so. Clearly, this is not conclusive proof that Jan is not responsible for winning, since there may be other bars to answerability or liability for winning, but the idea that he is not responsible for winning receives some support from the idea that it would be mistaken to hold him answerable or liable for winning on the basis of being responsible for this *because* he does not seem to be responsible for it: his abilities are too insignificant in his victory for us to grill him, or force liabilities on him, on the basis of those abilities.

What we are responsible for also sheds light on our feelings of agent-regret. Perhaps Jan can come to feel agent-regret over placing the bet (his bet comes up in conversation with a new friend who turns out to be virulently anti-gambling); but although he might regret winning, he cannot come to feel agent-regret over winning. Turning to our lorry driver, there's a difference between being responsible for setting off on a journey and being responsible for killing a child. This difference is manifested in his emotions. If he thinks that he is only responsible for setting off on his journey, he seems to move away from agent-regret as we tend to characterise it: as regretting the fact he killed the child. Regretting that he set off on the journey is one thing, and it is still agent-regret; regretting that he killed the child, or regretting that he is responsible for that death, is quite another thing. According to the basic claim, he can regret that he killed the child, and this is because he tried to exercise his ability to get from one place to another and in doing this he ran over the child. His mother, on the other hand, cannot feel agent-regret because, although she was responsible for giving birth to the driver, her actions and abilities are not relevant to our inquiries into why the child died—we take it as given that the driver exists, and her giving birth to him plays no significant explanatory role.

Of course, part of the problem is delineating exactly when we rightly hold people responsible, and by appealing to ordinary attributions I do not help to solve this problem of when exactly it is appropriate to attribute an outcome to someone. But I do explain *why*, when we do make such an ascription, we ascribe that outcome to someone's agency: because it arose because of his intentional exercise of an ability (e.g. an ability to drive safely) and that ability failed to achieve his aim. The "because of" gives us the causal element of outcome responsibility, the intentional exercise gives us the agential element. The point of this section is to reinforce the plausibility of the basic claim by

showing that it involves agential causation yet that it need not entail that we must be responsible for *everything* that follows from our agency.

5.2.4 Situating my account

It's important to situate my account in the context of similar accounts offered by Ulrike Heuer, Stephen Perry and Joseph Raz. What links these accounts is that they all, to some extent, notice that we can be responsible for outcomes, where this is compatible with an absence of full control, and that we are sometimes responsible for an outcome we did not intend because of its relationship to our abilities.

Raz's influence is most clear in my starting point: that of trying to distinguish responsibility from a lack of responsibility by way of a distinction between gambling and using one's abilities. This lets us establish that we can be agents in the first place. One significant difference with Raz's account is that my account allows for far greater fallibility. Raz thinks that we have a "domain of secure competence" such that "if we set ourselves to do something we will."⁴⁶ What's more, we are "entitled to [use these abilities] without reflecting on the prospects of successfully performing them", and that is because we will succeed if we set ourselves to.⁴⁷ Raz places some stress on how this relates to our sense of who we are and our self-respect.⁴⁸ For instance, he uses the example of becoming frail, and how this will affect my view of myself: I am no longer the sort of person who can carry the heavy vase.⁴⁹ But it should also be clear that Andrea Pirlo, despite not being able to know he will succeed, derives a large dose of self-respect from scoring free-kicks. Raz's account of the positive side of our abilities, his account of authorial responsibility, is too restrictive to get us further than understanding our responsibility for some very simple tasks.⁵⁰

Like Raz, I start by considering what it means to be responsible for an intentional action, unlike Raz, I think we can be responsible for outcomes that we are unlikely to achieve.

⁴⁶ Raz, *FNTR*, 244–45. See also Herstein, "Responsibility in Negligence," 173; Raz, "On Normativity and Responsibility," 223.

⁴⁷ Raz, *FNTR*, 245.

⁴⁸ For self-respect see above 4.1 and below 5.3.2

⁴⁹ Raz, *FNTR*, 245. See also Herstein's discussion of how Alzheimer's affects one's sense of who one is: Herstein, "Responsibility in Negligence," 174.

⁵⁰ See Wojtowicz, "Agent-Regret and Sporting Glory."

But our pictures are similar: we are responsible because these abilities relate us to the world, and we can be responsible for unintended outcomes because these abilities can fail. Stephen Perry starts from a different point, setting up a separate account for intentional outcomes that he discusses in much less depth.⁵¹ Perry's account of responsibility for unintended outcomes begins *in medias res*, assuming that we are sometimes responsible for unintended outcomes and trying to work out the best way of understanding strict liability by considering how we should cash out outcome responsibility, focussing on the role of foreseeability and the steps we could take to avoid an outcome (we will discuss foreseeability a little more at 5.3.1).⁵² My account focusses less on how we should understand these abilities and how they rely on foreseeability; instead, my account provides the groundwork: I focus on how our abilities make a difference in the world, and why this leaves us responsible for unintended outcomes.

My account also differs from Perry's in another way. Perry emphasises what we could avoid by successfully exercising our abilities. Presumably (I don't think Perry makes it explicit) the lorry driver is responsible for the child's death because he could foresee the general risk of killing whilst driving; and the lorry driver, had he successfully exercised his ability to (safely) get to the depot, would have avoided killing the child. I focus instead on the outcomes that arise *given* we exercise our abilities. Now, it should be clear that in many of these cases this will line up with what we could have avoided, simply because we often avoid these unintended outcomes *by* succeeding: the driver could have avoided killing the child precisely by doing what he can do, namely driving safely. But foreseeability seems to be at a few removes from the basic point that our agency causes these outcomes; still, foreseeability is a useful layer of complexity added to the picture, and we will return to it briefly.

Ulrike Heuer argues that an agent is responsible for an outcome if "she exercises skills and capacities that allow her to control the relevant outcomes. She is responsible for a failed action, if the failure is a mistake which occurs in the exercise of her capacities".⁵³

⁵¹ Intentional outcomes are covered by the "achievement" account see Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 82–83.

⁵² Perry, "Honoré on Responsibility for Outcomes," 77; Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 91. For much more on foreseeability see the rest of Perry, "Responsibility for Outcomes, Risk, and the Law of Torts."

⁵³ Heuer, "When Things Go Wrong: Responsibility for Failure and Negligence," 30.

My account is similar to Heuer's: responsibility for outcomes depends upon the fact that we exercise these fallible skills. But here are two differences. Heuer thinks that "it casts the net too wide" if an account of responsibility leaves us responsible for traffic accidents.⁵⁴ Yet it strikes me that we are responsible in such cases: after all, the child died because the driver was driving. Secondly, Heuer speaks of our failures in terms of "mistakes" and that might not quite align with my point, although this depends on what Heuer means by a mistake. We can hear "mistakes" as quite close to "faults".⁵⁵ What I hope to have brought out is that—even *when we do our best*—sometimes our abilities will fail. This is just the nature of our abilities: they are never going to guarantee success, so whenever we use them, even properly, they might fail. Even the best tennis player in the world sometimes hits a shot out.⁵⁶ Of course, it might not be clear when our actions are faulty, when we make a mistake, or when we have properly used our abilities and for whatever reason it has failed.⁵⁷ But I hope to have brought out how we can fail just because we are fallible, and this need not indicate any fault on our part. It is just part of being human.

What links these accounts and mine is that they all attempt to understand responsibility for outcomes, in ways that respect our fallibility. I hope to have shown that a plausible account of how we can make any impact on the world in the first place requires that we exercise fallible abilities, and that these fallible abilities can lead to unintended results that cannot just be reduced to the order of mere events. Rather, they arise because of what we have done as agents. Thus, we are responsible as agents for unintended outcomes. The basic claim, and the Unintentionalist picture of the nature of agency, makes sense of the role that our agency plays in the world.

5.3 The mature agent

In 5.3, I have two aims. One is to show that the Unintentionalist offers the most plausible picture of agency by offering considerations that fit with the claims made in 5.2 to

⁵⁴ Heuer, 8–9. This comes up in a discussion of Perry-like accounts, based on whether one could avoid the outcome. But the point here is that Heuer seems to think we are not responsible here.

⁵⁵ Raz mentions "negligence" and this has a similar problem: Raz, *FNTR*, 244. See Raz's accompanying note 28.

⁵⁶ Tannenbaum, "Emotional Expressions of Moral Value," 53.

⁵⁷ Raz points out that it can be unclear whether one "did not try hard enough" or "one just failed": Raz, *FNTR*, 247.

reinforce the plausibility of the basic claim. But the main aim here is to consider not just what it means to be a responsible agent, but how we think of ourselves as agents.

5.3.1 Foreseeability

Consider cases where the agent *knows* that if they try to achieve one outcome they also make another undesired outcome more likely. Pirlo knows that he has a 1-in-5 chance of scoring, a 3-in-5 chance of missing completely, and a 1-in-5 chance of getting a corner kick. Pirlo intends to score, he does not intend to miss.⁵⁸ But given that Pirlo is aware that if he elects to take the steps that would see him score he could also give away a goal kick, it would be bizarre to say that he is responsible for giving away a goal kick merely in a causal sense, or as a body moved this-way-and-that by luck, rather than due to his agential intervention.

We are responsible as agents for certain **foreseen** outcomes.

Now, some stripe of Intentionalist will allow that what one intends encompasses some of the likely effects of one's actions.⁵⁹ Perhaps agents are responsible when they knowingly take a risk,⁶⁰ or perhaps they are responsible in a "derivative" sense if the outcome follows from something done intentionally.⁶¹ Or we could expand the Intentionalist picture by considering what we *should have* foreseen.⁶² But whatever modifications we make to the Intentionalist account will only account for cases where the outcome is fairly likely. The Intentionalist cannot keep the character of her position according to which we are responsible only for what we intended and, for instance, hold the lorry driver responsible.

⁵⁸ For a discussion of a variety of views on what counts as intended, especially in the criminal law, see Duff, *Intention, Agency and Criminal Liability*, chap. 2.

⁵⁹ See some of the views of intention discussed at Duff, chap. 2. There are differences between foreseeing and intending an outcome; for a discussion of some differences in terms of liability and answerability see Duff, *Answering for Crime*, 2009, 63–69.

⁶⁰ Duff, *Intention, Agency and Criminal Liability*, 79–80.

⁶¹ For discussion of this see Heuer, "When Things Go Wrong: Responsibility for Failure and Negligence," sec. 2.

⁶² It seems plausible that we should be responsible (and liable) for risks even if we did not actually foresee them, see Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 84. See also Coleman and Ripstein, "Mischievous and Misfortune," 126–27.

The Intentionalist also fudges matters with less-well-defined risks. Take making an omelette. This isn't a difficult task like Pirlo's free-kicks; rather, the ability to make an omelette is one that almost always succeeds for any good cook. But any good cook who has made enough omelettes will also have ruined a few. Likewise, everyone who has driven a car has had a skid or a narrow miss, and we all know that driving is to some extent dangerous. In fact, we know that all of our abilities are fallible. As Perry puts it: "The knowledge that we only ever have partial or imperfect control over our interactions with the external world is itself a fundamental aspect of our sense of our own agency."⁶³ Whenever we act we know *that* our abilities might fail and might give rise to unintended outcomes, even if we have no determinate picture of *what* might arise, and even if we have no particular reason to think that we are likely to fail in this instance.

This is important in two respects. Firstly, it adds another layer of plausibility to the basic claim: it isn't just that all our abilities might fail, it's that we *know this*. We act knowing that, although we intend to change the world in one way, we cannot guarantee the contours of how things will turn out. As such, it seems that as agents who weigh up matters and intend things, we exercise our abilities aware that we might bring about unintended outcomes, even if we do not know what these outcomes might be. It seems that we should not just attribute these outcomes to some causal workings of the world—rather, they should be attributed to us as agents, since we made the choice to act knowing that we could bring about some unintended outcome. It underplays the role of someone's agency in the world if we reduce their role to a mere event rather than an agential intervention.

5.3.2 Self-understanding

The second respect concerns our self-understanding. My point in this section is that an agent who understands their agency, and their relationship with the world, in a realistic manner—what we might, following Williams, call a "mature agent"—recognises that their abilities could always misfire and recognises their responsibility for unintended outcomes.

⁶³ Perry, "Responsibility for Outcomes, Risk, and the Law of Torts," 83.

If I do not think that I am responsible for the unintended outcomes of my actions, then I seem to hold my ability to bring about intended outcomes at arm's length. Pirlo, if he takes an Intentionalist attitude, admits he can take constructive steps towards an intended end (the goal) but seem to push away the aspects of the ability that might lead towards other unintended ends (goal kicks and corners). Even though he knew the ball might go out for a goal-kick, he denies that this is down to him. This, I want to claim, suggests an immaturity as an agent. But why? Why would he have to accept responsibility for the failures as well as the successes? Because we can only achieve success (or failure) through our abilities, but these abilities are by their nature fallible and can have unintended impacts. For an agent to see himself as responsible for an outcome, he needs to recognise that he has an ability—and he needs a proper understanding of that ability.

My point comes out in an analogy with pride and shame.⁶⁴ Take the widespread picture of pride and shame whereby they relate to parts of who I am, and this can extend to, say, my relationships and associations with others: I see someone as forming part of my identity insofar as they are part of my family. As such, I might feel proud if that person has an impressive feature (they are very smart). They bolster *my own* identity by making the family of which I am part into an impressive family, and this redounds to me. But do I really identify as part of that family if the same family member's bigoted nature does not arouse in me even a modicum of shame? If I too readily would dissociate that member from my own identity, then it seems that my prideful identification is flawed: I do not seem to *really* identify with them. Either I do not properly *understand* how my relationship connects me to this family member (namely, in a way that might engender pride *or* shame), or I take a bad-faith and *disingenuous* view of this connection.

Likewise, what sort of attitude do I take towards my own abilities if I accept responsibility only for intended outcomes?⁶⁵ We can think of this in terms of specific abilities. How does Pirlo see himself if he doesn't accept responsibility for the unintended outcomes that follow from his free kicks? He might genuinely think he has an ability that never leaves him responsible for unintended outcomes, but this would show that he takes an

⁶⁴ See also Enoch, "Being Responsible, Taking Responsibility, and Penumbral Agency," 111–12.

⁶⁵ See also Raz, *FNTR*, 245.

unrealistic view on his own abilities; he sees himself as impinging on the world only when he succeeds yet we know he makes an impact on the world when he acts and fails to bring about the outcomes he intended. Or he might be disingenuous, trying to avoid responsibility in the same way that the bad-faith family member tries to avoid shame. And how does he see himself as a practical agent overall, if he only accepts the intended results of his actions? Again, it seems as though he would have a disingenuous grip on his agency, akin to the grip of the bad-faith family-member, or he would have an unrealistic view of the way in which he is an agent. Not only might he show that he fails to properly appreciate particular abilities, but he fails to properly appreciate his status as an agent.

Further, we can consider his *self-respect* (either as an agent, or regarding particular abilities).⁶⁶ To take a disingenuous or unrealistic attitude towards these skills is to undermine his self-respect. That is because his ability to impact the world in various ways is central to his self-respect, as we saw at 4.1. If he holds his abilities at arm's length, he holds the grounds for his self-respect at arm's length. His abilities are the ways in which he *can* make this impact on the world, so to hold them at arm's length in the way the bad-faith family member holds his relatives is to distance himself from centrally important grounds of his self-respect. Alternatively, if it turns out that he accepts only a gerrymandered subset of his abilities then he takes an unrealistic view of the grounds of his self-respect, so his self-respect is ill-founded.

Failing to take responsibility for the unintended outcomes of one's actions belies a **disingenuous connection** with one's own ability (or general abilities as a practical agent) or an **unrealistic view** of one's own abilities.

This affects our **self-respect**, leading to a tenuous connection with one's self-respect or grounding self-respect on a false picture of oneself.

⁶⁶ Raz thinks that to deny that I am responsible for some failure is to suggest that I do not really have a competence to avoid that failure—to deny I am responsible for the smashed vase is to deny that I can safely carry it and this is to deny that I am the sort of person who can carry a vase safely. Raz, 245, 268. See also Heuer, "When Things Go Wrong: Responsibility for Failure and Negligence," sec. 6; Herstein, "Responsibility in Negligence," 175–79. See below, 6.5.

The overarching point is that an agent who accepts responsibility for the impact of his actions only when he intends those impacts does not have a realistic picture of himself as an agent. Of course, the mature agent might not have to accept responsibility in *each* instance; a dose of immaturity, an occasional shirking of responsibility, does not stop you from being a mature agent. Yet one must accept responsibility for unintended outcomes in at least some, and perhaps the majority of, cases. We return to this in chapter 7.

This brings us to the passage from Williams with which I opened this chapter.⁶⁷ In “Voluntary acts and responsible agents,” Williams seeks to give us an idea of a mature agent.⁶⁸ The idea, as Williams sketches it, is fairly obscure and he never, to my knowledge, developed it in any depth. But the rough idea is that the mature agent has some understanding of himself and how he interacts with other people *and the world*. It strikes me that this is what Williams had in mind in “Moral Luck” when he claimed that agent-regret tells us something about agency.⁶⁹ Our propensity for agent-regret shows that we realise we are related to the world through being responsible for unintended outcomes. To be mature agents—to properly understand our relationship with the world—we need to accept that our abilities are fallible and with that comes responsibility for outcomes we never intended to create.⁷⁰

This also captures Susan Wolf’s position. Wolf holds that moral judgment should focus on *intentions* and *authorship*, but she offers the idea that it is virtuous for us to accept responsibility even if we are not “objectively” responsible (see above 4.3.1). I do not read Wolf as a revisionist. Instead, “objectively” responsible seems to correspond to being *morally* responsible, and moral responsibility concerns what we intentionally bring about or the content of our intentions being reflected in the world. Wolf claims that we need to take account of the other ways in which we interact with the world as agents.

⁶⁷ Note that Honoré also cites, and uses to bolster his claims about responsibility, this same passage: Honoré, “Being Responsible,” 133n34.

⁶⁸ Williams, “Voluntary Acts and Responsible Agents,” 27–29.

⁶⁹ Williams, “Moral Luck,” 29–30. See also Williams, “Voluntary Acts and Responsible Agents,” 30–31. For discussions of Williams’s aim see Bagnoli, “Value in the Guise of Regret,” 176; Wallace, *The View from Here*, 33–35.

⁷⁰ Williams thinks that the mature agent recognises that her identity is “constituted” (Williams, “Voluntary Acts and Responsible Agents,” 32.) by more than just what she intends. See also Greco, “Humean Reflections in the Ethics of Bernard Williams,” 322. We will turn to this in chapter 6.

Hence her claim, regarding her slightly-negligent version of a lorry driver who thinks he is no more responsible than an equally negligent driver who does not hit a child:

“The problem is not that he refuses to accept what responsibility he objectively has for the child’s death; it is that he fails to take responsibility for it, in a way that goes beyond that. He reveals a sense of himself—his real self, one might say—as one who is, at least in principle, distinct from his effects on the world... It is as if he draws a circle around himself, coincident with the sphere of his will.”⁷¹

Someone who takes responsibility only insofar as they are morally responsible cuts themselves off from the world even if this is all that is “objectively” (morally) required. The point is that there are other ways in which we are connected to the world: like how we are connected as fallible agents.

As such, I think we can develop a workable picture of the sense in which it is virtuous to take responsibility for such outcomes. As I said at 4.3.1, it was not clear *why* it is virtuous, nor was it clear (as I stressed in 4.3.2) why the agent, compared to bystanders or others who are connected to the outcome, has a special relationship with it and thus can take responsibility. But we might now see the sense in which it is virtuous. Agent-regret is not *morally* required, where morality is a narrow notion concerning the voluntary. But we are responsible *qua* agents. Wolf lays some stress on liability, which might explain why she compares this virtue to generosity.⁷² No doubt we might be generous in accepting responsibility outside of the moral; but there is another virtue involved, a virtue close to wisdom: we accept that we are responsible for more than just what we intend, and see that our interactions with the world reach beyond our intentions. Agent-regret, in taking as its object our responsibility for outcomes, even if these are unintended, manifests this wisdom. It is the emotion of a mature agent.

5.4 Vindicating Unintentionalism

Let me summarise what I have tried to do in this chapter and see how it gets us past the challenges of chapter 4. Firstly, I started by introducing the abilities-based account and explained how it allows us to ascribe outcomes to agents and allows for our authorship.

⁷¹ Wolf, “The Moral of Moral Luck,” 12–13.

⁷² Wolf, 14.

This was a point about how we can be agents in the first place. I then suggested that it is plausible to understand an agent as responsible for an unintended outcome if that outcome arose because she tried to bring about some other outcome—after all, she intentionally exercised an ability, thus she was involved as an agent, and that outcome arose because she exercised that ability. I then developed this by considering how agents understand themselves, arguing that a mature agent who properly understands her relationship with the world accepts the basic claim and recognises that she is only an agent in virtue of having fallible abilities that leave her responsible for outcomes she never intended to bring about.

I do not suppose that this shows, as Williams thought, that the Intentionalist offers an “insane concept of rationality”, nor that an agent who is *not* mature fails to at least have a picture of agency.⁷³ The Intentionalist offers a reasonable picture of what it is like to intentionally make a mark on the world. But they fail to recognise the importance of our abilities, and how these abilities connect us to the world. If our purported responsibility for unintended outcomes is swallowed up into the order of mere events, why doesn’t the same happen to our responsibility for intended outcomes? How can the Intentionalist hold that we are responsible for outcomes in the world but that this is only the case when we intend to bring about that very outcome? My account lets us say that we are agents when we make an impact on the world through the exercise of our abilities. It gives us agency, as opposed to the order of mere events, in the first place. And then it lets us add that we can have a more robust connection, a fuller sense of agency, when we add to these abilities a connection between our intentions and the outcomes that arise. This is not to say that the Intentionalist cannot make back some ground, nor is it to prove that the Intentionalist’s account is dead and buried. The point is that the Unintentionalist offers a more robust and more plausible—and, when accepted by the agent, a more mature—picture of what it is like to be a human agent.

Let’s now turn to see how this puts down the challenges we encountered in chapter 4. In 4.3, we encountered the revisionist. The revisionist approaches we encountered suggested that we might take responsibility for outcomes even though we were not, *qua* agents, actually responsible. They granted that we may have been causally responsible

⁷³ Williams, “Moral Luck,” 29.

and suggested that it would be virtuous to take responsibility. But it was far from clear *how* we could take responsibility. Not only was it unclear why, say, the lorry driver should take responsibility as opposed to a bystander, but it was also unclear what it would mean to take responsibility given that such a picture holds that he was not responsible *as* an agent. In this chapter, I suggested that the Unintentionalist picture, whereby we are responsible for outcomes *because* of the nature of our agency, allows us to make sense of the idea that we are responsible for these unintended outcomes in a straightforward way. We are responsible as agents because those outcomes arose due to the ways in which we, as agents, exercised our abilities—it's just that these abilities failed to work out.

The rejectionist, who we encountered in 4.4, offered us a powerful challenge to Unintentionalism: we only hold ourselves responsible for outcomes that we did not intend to bring about because we see that we are somehow related (perhaps causally) to that outcome and imbue this relationship with importance in a way akin to how ancient ethical views would say that a relationship to certain outcomes *polluted* an agent. There were enough parallels between outcome responsibility for unintended outcomes and pollution-based accounts of ethics for this to at least be a plausible explanation of why we hold ourselves responsible for unintended outcomes and why we feel agent-regret.

The explanation offered in this chapter gets us past that worry. It rests on a plausible story without any hint of spookiness. In this chapter, I have sought to counter the rejectionist challenge by explaining our attachment to unintended results not in terms of a discarded ethical theory, but through an appeal to our fallible status as human beings.⁷⁴ Rather than grounding our responsibility for unintended outcomes in some spooky ethic of pollution, we can see that this is actually founded in our status as human agents.

This account wears its plausibility as an account of human agency on its sleeve: we all, throughout our lives, beginning with some of our earliest interactions with the world, recognise that we are fallible and lack absolute control but are able to make some impact on the world. But that impact is imperfect and is shaped by our limitations. In order to

⁷⁴ Note also that we are *embodied*. The link between our materiality and our fallibility comes out clearly in Nagel, "Moral Luck."

make any impact on the world we must use our abilities. But all of our abilities are fallible. In utilising them, we run the risk of bringing about various unintended outcomes, and because these outcomes are generated by our agency we are responsible for them as agents rather than in some other causal sense. That has been the argument of this chapter. I hope to have conveyed a realistic picture of agency—and, more than that, a realistic picture of *human* agency. Given our fallible status, a mature agent who understands her relationship with the world accepts that she is responsible for certain unintended outcomes.

5.5 Agency and agent-regret

Let's return to agent-regret. I argued earlier that we feel agent-regret when we regret our own responsibility for an outcome. Were we responsible only for outcomes that we intended to bring about, we might allow for some forms of agent-regret: for instance, when we bring about an outcome intentionally but only do this because it is the lesser of two evils (what I have called "foreseen outcomes"). Yet central cases of agent-regret arise over unintended outcomes. The purpose of this chapter has been to bolster the claim made in Part I: that we are sometimes responsible for outcomes even when we did not intend to bring them about. Thus, we might be responsible for unintentionally running someone over or breaking a vase.

Of course, seeing that responsibility for unintended outcomes is central to our status as agents, and seeing that mature agents must accept this responsibility, shows us that *particular instances* of being responsible for an outcome (like being responsible for the child's death) must be *significant* to some extent. But the fact that human agents are responsible for unintended outcomes, and mature agents accept this responsibility, doesn't explain the difference between being responsible for a broken vase and a child's death. We *are* responsible for these outcomes, and mature agents accept this. But, for all we have seen in this chapter, both killing a child and breaking a vase are exercises of our agency and might be significant in exactly the same way: as exercises of our agency *in general*.

What is the significance of being responsible for smashing a vase as opposed to killing a child? Let me put this another way. In general, emotional reactions to an object presuppose that one cares about that object. In fact, emotions and care seem to go hand-

in-hand: to care about something is to be prone to certain emotional reactions to it, and to be prone to certain emotional reactions is to care about it.⁷⁵ Given that agent-regret is an emotion, and that agent-regret takes as its object one's responsibility for an outcome, this presupposes that in order to feel agent-regret one must care about one's responsibility for an outcome.

To feel agent-regret is to care about one's responsibility for an outcome.

It is one thing to show that being responsible for unintended outcomes matters insofar as it underpins our agency. Based on this chapter, we clearly should care to some extent about the fact we are responsible for unintended outcomes, and this is because we care about being agents. But it is quite another thing to show that these *instances* of responsibility matter in anywhere near the way presupposed by agent-regret: in a way that justifies caring about these particular instances of responsibility in importantly different ways.

Agent-regret is about particular instance of responsibility, it is not just about one's status as an agent. There clearly is a difference in what Maddie and the driver care about, yet they both exercised their agency. To understand agent-regret we need to see the ways in which particular instances of responsibility matter and understand why and how we care about them. I will argue, drawing on Williams and Honoré, that our responsibility for particular outcomes affects our identities. We now turn to this.

⁷⁵ See Anderson, *Value in Ethics and Economics*, chap. 1; Helm, "Emotions and Motivation"; Kolodny, "Love as Valuing a Relationship"; Rodogno, "Attachments and the Moral Psychology of Internal Conflicts"; Scheffler, "Valuing"; Wallace, *The View from Here*, 21–23.

Chapter 6

Identity

“For am I not what I am, to some degree, in virtue of what others think and feel me to be?”

Isaiah Berlin

“...we know that in the story of one’s life there is an authority exercised by what one has done, and not merely by what one has intentionally done.”

Bernard Williams

In this chapter we turn to why responsibility for particular outcomes matters to both the agent herself and to others. I have already established in chapter 5 that, in virtue of our status as agents, we are responsible for unintended outcomes; and in virtue of being mature agents we must accept responsibility for these unintended outcomes (or, at least for many of them). But seeing *that* we are responsible—and that being responsible in general is central to our status as agents—doesn’t tell us about the significance individual instances of responsibility (e.g. smashing Zack’s vase, killing the child) have for us. What is the significance of one’s responsibility for an unintended outcome? And do we rightly care about being responsible for, say, the child’s death?

In 6.1, I set out Honoré and Williams’s claims about responsibility and identity. They offer the idea that being responsible for this or that outcome affects our *identities* in different ways. We need to understand how this can be the case. In 6.2, I introduce the idea of an ethical identity. This includes features like our ethnicities and genders, and some philosophers hold that one’s ethnicity or gender is essential to being that individual. Is it plausible to suppose that outcome responsibility can play a similar role? In 6.3, I explore Meir Dan-Cohen’s argument that our ethical identities are affected by

¹ Berlin, “Two Concepts of Liberty,” 201.

² Williams, *S&N*, 69.

the outcomes for which we are responsible. Dan-Cohen's argument revolves around Williams's claim that Gauguin could not, if he succeeded, regret his decision to become a painter; Dan-Cohen's argument is that Gauguin is *essentially* a painter and that another figure, like Gauguin but a failed painter or a bank clerk, would not *be* Gauguin. I suggest that Dan-Cohen's argument is too strong.

In 6.4, I argue that what we are responsible for is important because it conditions how we see ourselves and how other people react to us. Our ethical identities engender such reactions, but where Dan-Cohen's account goes wrong is in making these reactions respond to essential features of an individual. Instead, I argue that our ethical identities also comprise of non-essential features. Such features are part of our identities insofar as they underpin such reactions. I argue that being responsible for an outcome is a feature of mine that affects my self-conception and interpersonal reactions: this is how outcome responsibility affects our identities. In 6.5 I show how the picture of ourselves as potent agents that we saw in chapter 5 further vindicates the importance that, in reacting in these ways, we give to our responsibility for outcomes. By the end of this chapter, we will have the material that will allow us a proper understanding of agent-regret and many of its nuances: we return our focus directly to agent-regret in chapter 7.

6.1 Honoré and Williams on responsibility and identity

To vindicate agent-regret, I need to show that we care about instances of responsibility *and* that we rightly care about them. To do this, I take up Honoré's idea that being responsible for an outcome affects our *identities*. As I noted at 4.3.1, there are two lines of thought here. One holds that our status as persons depends upon being responsible for outcomes; this relates to our discussion in chapter 5 concerning how one can make an impact on the world. The second line of thought is that our *particular* identities depend upon the particular outcomes that we are responsible for.³ Honoré presents this latter idea at several points:

³ The *locus classicus* of this claim is Honoré, "Responsibility and Luck." See also Hart and Honoré, *Causation in the Law*, lxxvii-lxxxii; Honoré, "Being Responsible"; Honoré, "The Morality of Tort Law"; Honoré, "Appreciations and Responses." For those who accept that outcome responsibility has an effect on our identities—though note that some hedge their acceptances or doubt that we can derive much about, say, the law based on this—see Cane, "Responsibility and Fault: A Relational and Functional Approach to

*“... outcome responsibility is... central to the identity and character of the agent... We are the people we are and have the character we have largely because the dealings in which our bodies and brains are involved, if in some aspect intentional, are attributed to us as the actions of persons with a continuing identity.”*⁵

*“[outcomes] are ascribed to authors, who accordingly count as persons; and it is by virtue of these ascriptions that each of us has a history, an identity and a character”*⁶

*“Outcome responsibility, as I conceive it, is the idea that certain outcomes of our conduct... are ours... We identify with them and others attribute them to us. They form a constituent of our individual character and identity, without which we should lack achievements and failures both in our own eyes and in those of others.”*⁶

“Finally, it is outcomes that in the long run make us what we are.”

It’s also important to note that—although it isn’t obvious in any of these passages, it is clear from the broader argument—Honoré means this to apply to *unintended outcomes* as well as intended outcomes.⁸ The idea is that the outcomes for which we are responsible affect “who we are”.⁹

Williams also offers a similar idea:

*“One’s history as an agent is a web in which anything that is the product of the will is surrounded and held up and partly formed by things that are not...if one attaches importance to the sense of what one is in terms of... what in the world one is responsible for, one must accept much that makes its claim on that sense solely in virtue of its being actual”*¹⁰

Responsibility,” 91–94, 109; Chapman, “Responsibility and Fault as Legal Concepts,” 216–17; Gardner, “Obligations and Outcomes,” 133, 143; Gardner, *From Personal Life to Private Law*, 64–71; Owen, “Figuring Responsibility and Fault,” 231; Perry, “Honoré on Responsibility for Outcomes,” 63–66, 71–72; Ripstein, “Private Law and Private Narratives,” 137; Sinnott-Armstrong, “Review of Responsibility and Fault, Tony Honoré,” 104. Allan Beever dissents, at least from the claim that unintended outcomes affect our identities Beever, “Corrective Justice and Personal Responsibility in Tort Law,” 489–91.

⁵ Honoré, “Introduction,” 10.

⁶ Honoré, “Responsibility and Luck,” 29.

⁷ Honoré, “Appreciations and Responses,” 223.

⁸ Honoré, “Responsibility and Luck,” 31.

⁹ See Lacey, “Space, Time and Function,” 239..

¹⁰ Lacey, 239. See also Chapman, “Responsibility and Fault as Legal Concepts,” 216–17; Owen, “Figuring Responsibility and Fault,” 231; Perry, “Honoré on Responsibility for Outcomes,” 71.

¹¹ Williams, “Moral Luck,” 29–30.

He also links the idea of a mature agent to the ways in which they recognise their identities are shaped by what they, perhaps inadvertently, do.

“The mature agent... will recognize his relation to his acts in their undeliberated, and also in their unforeseen and unintended aspects. He recognizes that his identity as an agent is constituted by more than his deliberative self.”¹¹

We can find a central core to all of these thoughts, whether put across as claims about identity, narrative, history, character, our sense of who we are, or human life.¹² The point is that one’s responsibility for an outcome can affect who one *is*.

Our **identities** depend upon our responsibility for particular outcomes.

There is something obviously right about this claim. Take Arthur Ripstein’s contention that: “Outcome responsibility is a familiar and pervasive feature of human life—persons think of themselves, and of each other, in terms of the impact that they have in the world. It is difficult to imagine what human life would be like without it. Our conception of interpersonal interaction is shaped by it, as is our autobiographical conception of ourselves as persons... Once Honoré has drawn our attention to it, the idea of outcome responsibility is familiar, and everywhere.”¹³ This captures the core notion of identity I defend, but Ripstein does not expand on it; the thought that our responsibility affects our identities is, in much of the literature, left as a sweeping statement, rather than a precise claim. We need a far better understanding of *how* exactly our responsibility for outcomes has an effect on our identities and, perhaps more importantly, *what* our “identities” are.

¹¹ Williams, “Voluntary Acts and Responsible Agents,” 32.

¹² Both Honoré and Williams use the term “character”, but this might be misleading. There is an unproblematic way of talking about character, like when we say that the wine has a full-bodied character; this just means that it has certain features. But it also has a more loaded philosophical use. I will suppose that they are just using the unproblematic sense of character and will not explore whether outcome responsibility directly affects our character *traits*, because this strikes me as implausible.

¹³ Ripstein, “Private Law and Private Narratives,” 37.

6.2 Ethical Identity

One way of talking about identity concerns classical issues in philosophy of personal identity, and this is often couched in terms of our “metaphysical identity”.¹⁴ Popular theories of metaphysical identity hold that identity is given by one’s bodily or psychological continuity.¹⁵ There’s no suggestion that our responsibility for outcomes affects our bodily or psychological continuity. Being responsible for, say, running over the child doesn’t affect the driver in this way. Not that this should worry us. Proponents of the idea that outcome responsibility affects our identities do not claim that outcome responsibility affects features commonly thought to constitute our metaphysical identities.¹⁶

It should be clear that there are other notions of identity in play than the metaphysical sense. One sense of “identity” that is often set up in contrast to metaphysical identity—notably by Kwame Anthony Appiah—is ethical identity.¹⁷ Take features like one’s gender;¹⁸ ethnicity;¹⁹ religion; being hearing or deaf;²⁰ or the period in which one was born.²¹ These features have been held to constitute our ethical identities.

One way of understanding ethical identity is as comprised of essential features of an individual. On this *essentialist* understanding of ethical identity, we cannot determine whether an individual is this individual just by appealing to bodily or psychological continuity, rather these ethical features are also essential to being this individual.²²

¹⁴ Witt, *The Metaphysics of Gender*, 22–24.

¹⁵ For Williams’s own views, which concern bodily continuity, see Williams, “Personal Identity and Individuation”; Williams, “Bodily Continuity and Personal Identity”; Williams, “The Self and the Future”; Williams, “Resenting One’s Own Existence.” See also Kripke, *Naming and Necessity*, 40–53, 110–14.

¹⁶ Without outcome responsibility “There would indeed be bodies and, associated with them, minds.” Honoré, “Responsibility and Luck,” 29.

¹⁷ Appiah, “But Would That Still Be Me?,” 495. See also Appiah, *The Ethics of Identity*. For discussion see Witt, *The Metaphysics of Gender*, 22–24.

¹⁸ Appiah, “But Would That Still Be Me?,” 494–95; Mikkola, “Feminist Perspectives on Sex and Gender,” sec. 4.2.2; Williams, *S&N*, 122; Witt, *The Metaphysics of Gender*, xi, 10.

¹⁹ For the race/ethnicity distinction see Appiah, “But Would That Still Be Me?,” 496–99.

²⁰ See R M Adams’s discussion of Helen Keller at Adams, “Existence, Self-Interest, and the Problem of Evil,” 60.

²¹ See Williams, “Imagination and the Self,” 40–45.

²² Appiah, “But Would That Still Be Me?” is clearly an effort to establish essential features. Witt does not concern herself with essential features, see Witt, *The Metaphysics of Gender*, 16–24.

Essentialist-Ethical Identity: certain ethical features are essential to being this individual (across time or possible worlds).

The difference between metaphysical and ethical identity concerns the features that they hold relevant to identity. An individual who is metaphysically identical might not be *me* in terms of ethical identity. JW, although identical to me in terms of personal identity but with different features relevant to ethical identity—perhaps JW was taken at birth and raised female,²³ or adopted and raised in Vietnam—²⁴ is not be *me* (if Essentialist-Ethical Identity is right).

For it to be plausible that these features constitute our ethical identities and that this is an important notion of identity, we need to see what significance these features might have. One way to think about this is that ethical identities make an ethical difference (hence “ethical”), and this is manifested in social reactions, our self-conceptions, and the projects we can pursue.²⁵ For instance, they affect how others treat us and interact with us. Being female, or Catholic, or a 19th Century Central European minor royal will affect how other people will react to you and treat you. So, our ethical identities affect our **interpersonal reactions**. It is just as important to note that many of these features will affect our view of ourselves. This is unsurprising: if certain of my features affect how others see me, and presumably these features in others affect how I see them, then they will likely affect how I see myself. So, my ethical identity affects my **self-conception**. Of course, this differs from how one’s metaphysical identity affects one’s self-conception: the claim here is that, say, one’s ethnicity or gender will affect how one thinks of oneself. There is also one further impact, which relates in various ways to our self-conceptions and interpersonal reactions. As Appiah puts it: “I was born into the wrong family to be

²³ Appiah, “But Would That Still Be Me?,” 494.

²⁴ Witt offers this example Witt, *The Metaphysics of Gender*, 51–56. See also Williams, “Imagination and the Self,” 40; Williams, “Resenting One’s Own Existence,” 224–25. Witt notes (*The Metaphysics of Gender*, 51.) that Vietnamese and British Jake would not be psychologically continuous and would have markedly different psychologies. So perhaps models of metaphysical identity based on psychological continuity can account for this.

²⁵ Appiah, *The Ethics of Identity*, 68–69; Witt, *The Metaphysics of Gender*, 23–24, 72–73. For discussion of self-conceptions and interpersonal reactions, see Nelson, “What Child Is This?,” 30–33; Schechtman, *Staying Alive*, 71–72, 103–4, chaps. 5–6.

a Yoruba chief and with the wrong body for motherhood.”²⁶ Our ethical identities *condition* our lives by determining what **projects** we can pursue.²⁷

Our **ethical identities** include features that affect interpersonal reactions and our self-conceptions, as well as the projects we can pursue.

So, features that comprise our ethical identities have a significant role in how we live our lives. They are ethically significant. The essentialist claim is that these features not only affect our interpersonal reactions and self-conceptions but are essential to being a particular individual. That is because we are more than just what is given by the metaphysical picture.²⁸

It strikes me as highly plausible that who we (essentially) are is given by more than mere metaphysical identity, and our ethical identities do contain some features essential to an individual being that individual. But, in section 6.4, I will argue that certain of our features condition these reactions—and thus are ethically significant features of our ethical identities—without being essential features of an individual. That is to say that there are features that comprise our ethical identities that are *conditioning* but which are not *essential*. Yet for now our focus is on an essentialist understanding of ethical identity, according to which the features of our ethical identities are essential to being this or that individual. Can this help us shed light on the importance of outcome responsibility? Of course, many of the features of our ethical identities that we considered above—ethnicity, gender, the period in which we were born, and at least the fact of our being raised in a certain religion or none—are given or formed from a very young age. Can responsibility for an outcome be an essentialist feature of our ethical identities?

Meir Dan-Cohen thinks so. In order to understand his account we need to explore a puzzling part of “Moral Luck”: Williams’s claim that Gauguin, if he succeeded, could

²⁶ Appiah, *The Ethics of Identity*, xii. See also Appiah, 15–17. For a more extreme example: “No fifth-century Athenian could behave just as Agamemnon or Achilles behaved. No thirteenth-century Iclander could have behaved quite like the men of the tenth century.” MacIntyre, *After Virtue*, 131. See also Williams, *ELP*, 161.

²⁷ Appiah, “But Would That Still Be Me?,” 499; Appiah, *The Ethics of Identity*, 21–22, chap. 3. Perhaps there are goods internal to certain practices (MacIntyre, *After Virtue*, chap. 14; Raz, “The Practice of Value.”) and participation in these practices presupposes certain identities.

²⁸ The answer to ““But would it still be me?”... reflects our self-conception as social agents rather than an external metaphysical/scientific truth like the necessity of origin” Witt, *The Metaphysics of Gender*, 23.

not regret his decision to become a painter in Tahiti.²⁹ Williams's argument is that Gauguin's life "derives an important part of its significance for him" from the fact that he has succeeded and can evaluate his life in terms of being a painter.³⁰ Yet it is not clear *why* this rules out regret. Dan-Cohen argues that Gauguin cannot regret his decision because his decision gives him his identity, and so *he* cannot regret the decision for without it he would not exist.³¹ Exploring this will allow us to see one way of understanding how outcome responsibility might affect our identities and will allow us a better understanding of an important part of "Moral Luck". But I will argue that Dan-Cohen's picture is unrealistic; to understand the impact outcome responsibility has on our identities, we need to move away from essential features: we need to move away from thinking about identity in terms of whether this would be the same individual across time or worlds.

6.3 *Dan-Cohen and Gauguin*

Dan-Cohen thinks that:

*"people's identities are fixed in the course of their lives, the variations on the actual course of a person's life which we can intelligibly imagine while retaining the person's identity, that is the variations that would still count as variations on the life of the same person, are limited. If the imaginary departure exceeds a certain threshold, no sense can attach to the claim that we're still imagining the same person."*³²

In this section, I want to explore this position, show how it relates to outcome responsibility, and argue that it fails. Before proceeding, I should note that Dan-Cohen's position does not explicitly use the language of ethical identity or outcome responsibility, and he develops various nuances that I will only briefly discuss in the footnotes. Yet his picture certainly captures the spirit of an attempt to understand our responsibility for

²⁹ Williams held that this does not apply to all decisions, but only to those projects that help to form an agent's "stand-point of assessment" Williams, "Moral Luck," 35. It must relate to "the agent's sense of what is significant in his life." Williams, 36.

³⁰ Williams, "Moral Luck," 35.

³¹ Dan-Cohen, "Luck and Identity." For a more detailed expression of Dan-Cohen's views on identity see Dan-Cohen, "Responsibility and the Boundaries of the Self." These are reprinted in, respectively, Dan-Cohen, *Normative Subjects*; Dan-Cohen, *Harmful Thoughts*. Both of these collections extend Dan-Cohen's thoughts.

³² Dan-Cohen, "Luck and Identity," 8.

particular outcomes as features of our ethical identities, and I hope that my exposition respects that.

6.3.1 Dan-Cohen and identity

Dan-Cohen starts with the idea that when a project is “defining” it is momentous enough to “play a sufficiently dominant role in the person’s identity.”³³ For instance, Dan-Cohen says that had he joined the Navy or become a violinist (these careers are all projects) then the figure who had lived that life would not have been him (he is a law professor).³⁴ There is something plausible about this in light of our self-conceptions and interpersonal reactions; think about the ways in which these various career projects would condition his own view of himself, his life plans, and the ways others interact with him. Had he been a sailor then producing an academic treatise, writing an insightful paper on Bernard Williams, or getting a professorship would likely have had less importance—or at least a different significance—and although there would have been certain codified forms of respect in military matters, he would not expect to be revered by students just as Professor Dan-Cohen would not expect to be saluted as he stepped onto ship.

Dan-Cohen’s is a point about what features are essential to being a particular individual.³⁵ It is undeniable that our life stories are important, yet a more moderate position holds that the individual who lives that life may remain identical to an individual who lives a wildly different life: both the Captain and the Professor are Meir Dan-Cohen. Dan-Cohen’s view is different. He holds that our life stories affect the identities of the persons who live those lives such that the same person could not have lived a wildly different life. The Captain and Professor are distinct individuals. Comparing Captain and Professor is like comparing Dan-Cohen’s actual life “to the life of a medieval knight or

³³ Dan-Cohen, 7–9. Dan-Cohen also thinks minor projects (like reading this thesis) can affect one’s identity, albeit through being part of a larger whole: Dan-Cohen, 17–18; Dan-Cohen, “Responsibility and the Boundaries of the Self,” 966, 972; Dan-Cohen, “Constructing Subjects,” 23–25. This is important if one wants to defend the idea that outcome responsibility affects our identities, and that this occurs in more cases than just major cases like Gauguin’s project.

³⁴ Dan-Cohen, “Luck and Identity,” 9–10. Dan-Cohen suggests there is a “historical” possibility but not a “counterfactual” possibility of this being him. What is important in considering ethical identity is that there is no counterfactual possibility of the violinist being Dan-Cohen.

³⁵ Dan-Cohen connects narratives and identity Dan-Cohen, 7–8. But our narrative identities are amenable to social or individual pictures, see 6.2 and see also Dan-Cohen, “Socializing Harry.” Thus it strikes me that Dan-Cohen’s account is close enough to the sense of ethical identity I have sketched and can serve as an illustration of what it would mean for one’s responsibility for an outcome to affect one’s identity.

a Hebrew prophet”;³⁶ but it’s not just that the *lives* are as different as they are from a knight or a prophet, rather the “subject of that life” is a different person.³⁷ Dan-Cohen thinks that not only would he have had a different life story, but he would be a different individual: Captain Dan-Cohen and Professor Dan-Cohen are different people and the individual who is Captain Dan-Cohen could not *be* Professor Dan-Cohen, much as he could not be the Hebrew prophet.

On Dan-Cohen’s picture, if Gauguin succeeds then his life is altered, *as is his identity*: he, the successful painter, could not *be* the unsuccessful painter.³⁸ Gauguin-successful is nearly as different from Gauguin-failed as he is from a knight or a prophet. Thus we can understand why Gauguin cannot regret deciding to become a painter if he succeeds and becomes one. To regret what he has done involves Gauguin wishing that things were otherwise; but given that his success is central to who he is, this involves wishing “that he were someone else.”³⁹

Dan-Cohen holds that by succeeding Gauguin becomes a different individual to the individual he becomes by failing, thus Gauguin cannot regret *his* success because success makes him who he is.

We will soon return to the discussion of Gauguin—and will consider whether Dan-Cohen’s argument is plausible. Before doing that, then we need to see how projects relate to outcome responsibility.

6.3.2 Outcome responsibility and projects

Take the example of Muhammad Ali beating George Foreman in the Rumble in the Jungle to affirm his status as the best boxer in the world. This is a project that can succeed only by Ali *beating* Foreman. If Foreman had fainted before the fight, or collapsed due

³⁶ Dan-Cohen, “Luck and Identity,” 9.

³⁷ Dan-Cohen, 9.

³⁸ Dan-Cohen, 12–13.

³⁹ Dan-Cohen, 13. This is “incoherent”. One might, in feeling regret, prefer not to have existed at all, which is not incoherent: Dan-Cohen, 22. See Williams, “Resenting One’s Own Existence.” For further reflections on the limits of how past events condition our lives and identities and how this affects what we might regret, see Adams, “Existence, Self-Interest, and the Problem of Evil”; Wallace, *The View from Here*, chap. 5.

to some illness, Ali would not have beaten Foreman or affirmed his supremacy.⁴⁰ What this project needs to succeed is for the outcome “winning the fight” to be attributed to Ali. He needs to be responsible for beating Foreman.

For our projects to succeed, we need to be responsible for certain outcomes (at least, this is true for any project that seeks to make an impact on the world). To build on an example from Williams (which he does not develop, so it isn’t clear he has exactly my picture in mind), there is a difference between having a project to cure injustice in some part of the world, and a project that *I* cure injustice in the world.⁴¹ But we must be careful about how we understand the project to cure injustice because if injustice is cured by someone else, then my connection to that outcome might not be the right sort to establish the success of my project. For instance, if Archie has a plan and I step back from any involvement, it’s not clear that my project has succeeded. Rather, something I want to happen (injustice is cured) happens, and it happens independently of my project. For my project to succeed I have to be involved, I have to be responsible for at least some outcomes. If Archie’s plan is best, then for *my project* of curing injustice in the world to succeed, I need to be involved; perhaps I need to do the event logistics, or help to secure funding, or perhaps I realise that it’s best that I do not get involved and give up on my project for the greater good of the injustice being more efficiently cured. The point is that any world-directed project must be a project for *me* to succeed.⁴² For a father to have a project that his son succeeds, the son must succeed partly through the father’s help; otherwise, he just hopes his son succeeds and is glad when he does.

So, outcome responsibility figures because for that project to succeed, I need to be responsible for some outcome (e.g. the absence of injustice in that part of the world).

The **success or failure** of our (world-directed) projects depends upon being responsible for outcomes.

Whether Gauguin succeeds in his project to become a painter depends on whether he is responsible for certain outcomes, namely whether he is responsible for the production

⁴⁰ Perhaps this is *good* extrinsic luck, but perhaps not: Ali doesn’t just want the title, he wants to *win it*.

⁴¹ Williams, “PCM,” 13–14.

⁴² See also Williams, *ELP*, 55–56.

of beautiful pictures in this new style.⁴³ So, if Dan-Cohen is right, responsibility for outcomes alters our identities insofar as it is central to the success of our projects, and successful projects are essential parts of our identities.

As an aside from identity talk, this understanding of the relationship between projects and outcome responsibility also lets us see why Honoré was right in another claim about the importance of outcome responsibility. He claimed that without outcome responsibility “we would lack both achievements and failures.”⁴⁴ For me to *achieve* something, for something to be an achievement of mine, I must be responsible for some outcome or other. This further expands on the related idea, discussed above at 4.1, that we gain much of our self-respect as potent individuals from the impact we make on the world. We gain much of our self-respect through our achievements, and many achievements rely upon our responsibility for outcomes. We saw in chapter 5 that our abilities are central to our self-respect, but now we see something more: our responsibility for particular outcomes is central to our self-respect because this responsibility grounds many of our achievements.

Further, as I argued at 5.2.1, the abilities-based account of outcome responsibility allows us to make sense not just of our achievements, but also of our failures, and the particular ways in which we can fail: I fail in this way or that because I am responsible for this or that unintended outcome. Outcome responsibility is central to both achievements and failures.

Many of our **achievements** and **failures** depend upon our responsibility for outcomes.

It should be clear that the success or failure of many of our projects depends upon our responsibility for outcomes; what’s more, this responsibility is central to our achievements or failures.

⁴³ This is put more clearly in terms of responsibility for outcomes, as opposed to the success of projects, at Dan-Cohen, “Responsibility and the Boundaries of the Self,” 963.

⁴⁴ Honoré, “The Morality of Tort Law,” 76. See also Honoré, “Being Responsible,” 128, 131–32; Honoré, “Appreciations and Responses,” 223.

6.3.3 Gauguin's regrets

Let's return to Dan-Cohen and how this responsibility might affect our identities. His approach to Gauguin, combined with our understanding of the role of outcome responsibility in the success or failure of our projects, offers a way of understanding the claim that outcome responsibility affects our identities.

Dan-Cohen's position on identity holds that success or failure in certain projects is so important that it alters our identities. Success in our projects depend upon our responsibility for outcomes, thus our identities are affected by our responsibility for certain outcomes.

Thinking about projects was a useful way of seeing Dan-Cohen's argument; but we can extend the spirit of his claim beyond the scope of projects. For instance, although some people try to understand the lorry driver as failing in a project to drive safely, this might stretch the language of "projects".⁴⁵ We could just as well hold that certain events and our responsibility for certain outcomes also affect our lives enough to alter our identities. Being responsible for this or that outcome might be so important—whether or not it is a project—that it would not be me were I not responsible for that outcome. Oedipus, in killing Laius, so conditions his life that a figure who did not kill Laius would not be Oedipus, but we don't need to hold that Oedipus had a *project*.

It might well be that Oedipus or the lorry driver is so conditioned by the event that we cannot imagine *them* as not having killed Laius or the child respectively. This is more plausible the greater the extent to which the event conditions the rest of their lives, and so will be more prominent when the lorry driver looks back decades later than when he reflects on what happens as he struggles to get to sleep that night after killing the child. Yet, despite its plausibility in some cases, Dan-Cohen's account gives us an implausible view of our own reactions to our past successes or failures.

Consider Gauguin's reactions to his success. He might feel lucky, or relieved, or grateful for his success. But does that translate into feeling grateful that he is *this person* not

⁴⁵ Wolf, "The Moral of Moral Luck," 11. Tannenbaum puts this in terms of realising one's ends: Tannenbaum, "Emotional Expressions of Moral Value," 53–55.

another? It's far more plausible to hold that his gratitude is directed at the fact he succeeded, and his relief is relief that his life turned out this way and a reflection on how *he* could have failed. His thoughts do not seem to attach so much to who he is, but to what he *has done*. When he thinks about what life would have been like had he had a stroke of bad luck and failed, he thinks of the life of a failed artist thousands of miles away from his family whom he abandoned in pursuit of a worthless dream.⁴⁶ How should our Gauguin (the Gauguin who succeeded) react when he thinks about such a figure? When he thinks of this possibility, he is not just imagining some figure—like him but not him—as failing; rather, he imagines what life would have been like for him had he failed. Dan-Cohen must deny this, yet surely Gauguin can imagine himself suffering this dismal fate. He is imagining himself; he is not imagining in the way he imagines a Hebrew prophet.

And consider what a failed Gauguin might think. He can surely wish that he had succeeded—he does not just regret the decision, but his failure. We can see this in another famous example. In *On the Waterfront*, Marlon Brando's character famously says "*You don't understand. I coulda had class. I coulda been a contender. I coulda been somebody, instead of a bum, which is what I am...*" If we hold that what we do is an essential part of who we are, we have to deny this: a contender would have been a different individual.⁴⁷ For either Brando's character or a failed Gauguin, it's far from clear that in wishing that he had succeeded he wishes he was a different *person*. Instead, he just wishes that his life had gone differently.⁴⁸ Finally, take the lorry driver. Does the lorry driver really regret being *who he is*? No. Rather, he wishes that *he* had never killed someone. He might have had a different life had he taken a different route that morning or had the child not chased his ball into the street, but it still would have been him.⁴⁹

⁴⁶ On Dan-Cohen's picture, it is not lucky for *this Gauguin* that he succeeded, because to be this Gauguin he must have succeeded, see Dan-Cohen, "Luck and Identity," 18–19.

⁴⁷ Thanks to Max Lewis for this example.

⁴⁸ Dan-Cohen thinks there is an important disanalogy between failure and success, insofar as failure does not lead to an identity ("not-painter"). Dan-Cohen, "Luck and Identity," 16–17. This doesn't get past my problem: that failed-Gauguin's regret is not that he wants to be a different person (for that is what the successful Gauguin is—on Dan-Cohen's picture—and it would be just as incoherent to wish to be a different, but successful, person) but he wants to have succeeded.

⁴⁹ See Wallace, *The View from Here*, 144–47.

Dan-Cohen denies that this is a problem.⁵⁰ He thinks that his account properly captures the importance of success and failure. Yet it jars with a very natural way of thinking about how successful characters understand the possibility of failure, and how unsuccessful characters understand *their* failures. Dan-Cohen's account requires a major overhaul of our emotional responses; is there a more plausible, less revisionary, way of understanding what Williams and Honoré were getting at?

6.4 Conditioning Features

I hope that it is clear from the above discussion of Dan-Cohen's position that, even though I reject Dan-Cohen's analysis, our lives can be very different depending on whether we succeed or fail at certain projects; more broadly, our lives differ depending on the outcomes for which we are responsible. But the idea that our lives can go different ways can be seen as more or less significant. Recall, from 4.4.2, Wallace's claim about the driver's biography. Wallace thinks that the driver's "biography has merely taken a macabre turn".⁵¹ Just as much as Dan-Cohen's account is too strong, the idea that the driver's biography has *merely* taken a macabre turn surely downplays matters. Both Honoré and Williams clearly want to attach some importance to outcome responsibility and talk of identity crystallises this importance. To vindicate the importance of our responsibility for particular outcomes by appealing to the relationship between responsibility and identity, we need to capture this importance. We must offer something that is more plausible than Dan-Cohen's claim, but which is strong enough to take seriously the importance of outcome responsibility such that it can make an impact on our identities.

We have already seen that our self-conceptions, interpersonal reactions, and the projects that we can pursue are ethically significant. The next step comes in seeing that these reactions can respond to features that are not essential to being this individual.⁵² When we think about who I am, we should not just try to imagine how I could be different or

⁵⁰ Dan-Cohen, "Luck and Identity," 18–20.

⁵¹ Wallace, *The View from Here*, 42.

⁵² See Herstein, "Responsibility in Negligence," 175. Herstein draws attention to Raz, *Value, Respect, and Attachment*, 33.

what features of mine need to remain consistent to make some figure, across time or worlds, me. Instead we can focus on what I am actually like.⁵³

Take an analogy. We might ask whether a party composed of Enoch Powell, Margaret Thatcher, and Theresa May could be the Labour Party. Clearly not. Yet a party of Nick Clegg, Caroline Lucas, and Nicola Sturgeon isn't all that far away from New Labour. This might be because the Labour Party is committed to a left-of-centre economic policy, with some liberal social policies: any party that lacked these elements, and had members of a rightward and illiberal bent, would not be the Labour Party. Knowing this is useful, but it doesn't tell us everything there is to know about the Labour Party, nor does it explain outsiders' reactions to the Labour Party, nor how party members think of it. To explain this, we need to capture its leftward lean, the influence of Momentum, and its recent policy moves. We do not just want to know what the Labour Party could be, or what sort of entity could be the Labour Party. We want to know about the current "identity" of the Labour Party that conditions how we (either as outsiders or members) react to it. But we do not think that these features, nor the party leadership, are essential to the party being the Labour Party. Still, it is appropriate to talk about these features as being part of the identity of the Labour party.

Another way of seeing the difference between essential features and what I'm considering here is through a contrast between the constraints on the lives we can lead and the ways in which we move within those constraints. Take Appiah's claim that he could not be a Yoruba chief. Essential features of our ethical identities *condition* our lives by placing limits on our projects but also by opening up certain avenues.⁵⁴ Were we to imagine a figure who was a Yoruba chief, it would not be Appiah. But this doesn't tell us much about Appiah as he actually is. To get anything like the rich and ingrained reactions people (philosophers, readers of his *New York Times* column, his friends, his family) have to Appiah, and the reactions he has to himself, we need to understand how his life went within these bounds, how he staked a claim to one possibility or another.

⁵³ Marya Schechtman offers an important statement of this distinction at Schechtman, *Staying Alive*, 1–3. See also Nelson, "What Child Is This?," 30. See also Herstein: "There is a sense in which a feature of one's identity is formative of "who one is" even if losing that feature would not entail losing one's identity." Herstein, "Responsibility in Negligence," 175.

⁵⁴ See this chapter note 26

Essential features might not tell us, depending on how we flesh it out, that Einstein gave us special relativity or that Springsteen could sing. But these features are important to who these people are. Whether Gauguin sees his life as a success or a failure, whether we see Gauguin as a despicable creep preying on vulnerable women or as a masterful artist depends upon more than the features essential to him.

We need to look to the features that constitute identity in a non-essentialist sense; these are what I will call *conditioning features* of one's ethical identity.⁵⁵ An essential feature of one's ethical identity determines what one could be *and* affects one's self-conception and interpersonal reactions; a conditioning feature does not determine what one could be *but* it does affect one's self-conception and interpersonal reactions. These are conditioning insofar as they condition the reactions others have to the agent, how the agent thinks of herself—thus they are ethically significant.

Is it plausible, though, to hold that these features are part of our identities? Yes. Firstly, as David DeGrazia makes clear, it is only in certain philosophical contexts that questions of identity concern essentialist features; more often they concern what I have called conditioning features of one's identity.⁵⁶ Secondly, conditioning features of our ethical identities are clearly *significant* even if they are non-essential. What is it about a feature that makes it such that it constitutes who I am? We should want these features to “make a difference” to how I am thought of.⁵⁷ I said at 6.2 that our ethical identities affect our social interactions, self-conceptions, and the life plans we take up. Even if one objects to calling this liberalised notion “identity”, Honoré and Williams were clearly trying to appeal to something *important* when they connected responsibility with identity—and these conditioning features are clearly important features of an individual, even if they are not essential to her being *that* individual. Features like Springsteen's musical prowess or Einstein's achievements are not essential to Springsteen or Einstein being that individual; but they are significant, even if they are not essential. Hence, we can capture the importance that Williams and Honoré were after with their appeals to “identity”.

⁵⁵ One could also understand this as one's “biographical identity” see Golub, “Personal Value, Biographical Identity, and Retrospective Attitudes,” 10–13.

⁵⁶ DeGrazia, *Human Identity and Bioethics*, 78.

⁵⁷ Appiah, *The Ethics of Identity*, 68.

One's ethical identity includes *conditioning* features that are non-essentialist but which condition one's social interactions and self-conception.⁵⁸

It is important to note that this conception has two important parts:

There are *features* (whether essential or conditioning) that comprise one's ethical identity.⁵⁹

For instance, my character traits, my sense of humour, and my gender will all be features that are part of my ethical identity. Some of these features might be essential, my point is that they are not all essential.

The second part is that:

These features underpin certain *reactions*.⁶⁰

These reactions include social interactions and our self-conception. (Conditioning features might also affect the projects we can take up, but I will set that aside.) Included amongst these reactions will be emotions like pride, shame, disgust, and agent-regret.⁶¹ Although the connections between these features and reactions will be complicated and I will not explore them, it should be clear that there is some relationship between these features and these reactions.

⁵⁸ These features will differ between people, and this will allow us to distinguish between agents; it is a contingent fact that we are all responsible for a different outcomes, so these conditioning features often make us distinct. See Hart and Honoré, *Causation in the Law*; lxxx-lxxxi. See also Raz, *FNTR*, 238–39; Herstein, “Responsibility in Negligence,” 174–75. I will not discuss the role these features play in establishing our distinctness.

⁵⁹ Honoré suggests that our responsibility for outcomes is necessary to having an identity. Honoré, “Responsibility and Luck,” 29. This is too strong. Much as outcome responsibility is only one way in which I can, as a person, be responsible for something (see 2.3.1), we should not suppose that my entire ethical identity is constituted by outcome responsibility, nor that one would lack any identity without outcome responsibility—the point is that our identities as we understand them *do* involve our responsibility for outcomes.

⁶⁰ A further important aspect of these features is brought out by R M Adams: our self-concern is not just based on “bare metaphysical identity, but also projects, friendships, and at least some of the most important features of our personal history and character” such that happier people with “too thoroughly different” features would not be us. Adams’s point is that there is a “*self-interest relation*” based in ethical identity. Adams, “Existence, Self-Interest, and the Problem of Evil,” 60–61.

⁶¹ See Raz, *FNTR*, 235.

I suggest that we should see the relationship between our responsibility for an outcome and our identities in terms of conditioning features of our ethical identities, whereby what we are responsible for is a conditioning feature of our ethical identities. This allows us to respect the importance of being responsible for an outcome without construing that importance as essentialist, and thus without leading to Dan-Cohen's revisionist position: what I am responsible for affects how others react to me, and how I think of myself, but it would still be me if I were not responsible for that outcome.

Is this plausible? It strikes me that this is clearly true. One obvious way in which outcome responsibility is a conditioning feature and affects reactions to us is by way of our successes. As I said above at 6.3.2, it should be clear that Gauguin lives a very different life whether he succeeds or fails, and this will be a conditioning feature of his ethical identity. Likewise, Muhammad Ali's self-respect would rightly be bolstered by his victory; this takes on a third-personal guise: he would have received less admiration and have had less of an aura had he lost. His victory in the Rumble in the Jungle meant he was seen in a certain way and saw himself in a certain way, including in a way that affected his (self-)respect.

But this doesn't tell us much about cases of agent-regret, because it doesn't tell us much about how unintended outcomes are conditioning features. This comes out when we consider failures. George Foreman is known now not for his boxing, but for his grills (and for his unconventional child-naming choices). Clearly, we would have regarded Ali and Foreman differently had Foreman triumphed. There are also cases where a failure itself conditions how we see someone: Jean Van de Velde is known for losing The Open Championship in 1999. How we think of him, as well as, surely, how he thinks of himself, is conditioned by this failure. We do not need to leave this discussion to cases of projects and their failures; it should be just as clear that our responsibility for outcomes, detached from our projects, grounds our reactions. Think about the various ways we might think of the lorry driver. If he kills the child, we'll think about him differently to if he hits the child and the child is left bumped, bruised, but mostly okay.

In fact, he is a killer.⁶² When Maddie smashes the vase, the vase's owner may now think of her as "the girl who smashed my vase".

This is not to say that every instance of responsibility plays this role, and I will nuance this in chapter 7.⁶³ But it is true that our responsibility for an outcome is often a conditioning feature, and we do not have a full picture of one's ethical identity—of who someone *is*—if we do not pay heed to the role that outcome responsibility can play. Others agree. Arthur Ripstein called attention to how "Our conception of interpersonal interaction is shaped by [outcome responsibility], as is our autobiographical conception of ourselves as persons"; this is a "familiar and pervasive feature of human life".⁶⁴ John Gardner points out that any story of a life that omits the outcomes for which one is responsible will seem, at least to us, "strange and attenuated".⁶⁵ So, our responsibility for outcomes is indeed a conditioning feature that affects our self-conceptions and interpersonal reactions, and it plays a widespread and familiar role in our lives.

6.5 The significance of instances of responsibility

I have argued that the effect outcome responsibility has on our "identities" is as a conditioning feature that engenders ethically important reactions. I have appealed to reactions from the first-personal to the third-personal, and suggested that these are clearly ethically significant, and thus our responsibility for particular outcomes plays an important role in our lives. If our responsibility for particular outcomes is important, we can see that it is an appropriate object of agent-regret. But a worry lurks: are these ethically important reactions *appropriate* reactions to our responsibility for outcomes? After all, much as we might worry that agent-regret is prevalent but is inappropriate, we might worry that if our responsibility is important only because of prevalent reactions, this doesn't let us see that our responsibility is important and *rightly* a part of our identities, so it won't help us vindicate agent-regret.

⁶² See Raz, 234–35. See also: "You are my wife's killer!"... [this] can be taken quite literally as an attribution of a certain identity or characteristic... that of being a killer." Dan-Cohen, "Responsibility and the Boundaries of the Self," 984. Although Dan-Cohen's example is of an intentional shooting, it applies just as well to our unfortunate lorry driver.

⁶³ See Herstein, "Responsibility in Negligence," 176–79.

⁶⁴ Ripstein, "Private Law and Private Narratives," 37.

⁶⁵ Gardner, *From Personal Life to Private Law*, 66. See chap. 2 and Gardner, "Obligations and Outcomes."

One response here is that the fact these reactions are so ingrained leads to a *Strawsonian conclusion*. Williams claimed that we (we humans, as we are) cannot imagine our lives without agent-regret and responsibility for unintended outcomes;⁶⁶ likewise, we have seen that Ripstein and Gardner think our reactions to outcome responsibility are deeply ingrained: our responsibility for outcomes clearly plays a role in the ways in which we think of ourselves and others. Further, “our natural human commitment to ordinary interpersonal attitudes... is part of the general framework of human life, not something that can come up for review as particular cases can come up for review within this general framework.”⁶⁷ Given that we find our reactions to ourselves and others conditioned by responsibility for various outcomes, and given that this is widespread and commonplace, we should not think that we can just excise these reactions and keep a grip on a recognisable human life.⁶⁸ The significance of our responsibility for outcomes is given by the significance of our reactions to our responsibility for outcomes.⁶⁹

Further, this lets us see that agent-regret is proper, in two ways. Firstly, it is a widespread and deep emotion, so it needs a significant object—and our outcome responsibility is significant insofar as it plays this role in our reactions. Given that agent-regret responds to our responsibility for particular outcomes, we see that agent-regret responds to something significant. Secondly, agent-regret *is* (at least in many cases) one of these reactions—to feel agent-regret is to see myself as a killer or a vase-breaker—so we cannot just excise agent-regret from our emotional lives.

I noted in the introduction that our reactions are important guides in revealing what is important to us, and how we think of ourselves. If one accepts this, the Strawsonian conclusion will likely be satisfactory. But the Strawsonian conclusion can be deepened, and in doing this we see a response to a challenge to it: that although this syndrome of

⁶⁶ Williams, “Moral Luck,” 29. See Raz, *FNTR*, 235.

⁶⁷ Strawson, “Freedom and Resentment,” 70. Reactive attitudes as Strawson construes them are a (morally-loaded) subset of our interpersonal reactions and many of these reactive attitudes will be based on our responsibility for outcomes.

⁶⁸ Remember, we are after an understanding of *our way* of being persons, see above at 4.1. Although we might imagine some form of life abstracted from the interactions we have, and the features that condition those interactions, it is not *our* form of life and perhaps not a human form of life. To understand *us*, we need to make sense of these interactions. See Williams, “PCM”; Williams, *ELP*, chap. 4; Williams, “A Theory of Justice, by John Rawls.”

⁶⁹ Likewise, the significance of our ethnicity, gender, etc., is at least partly based on how these affect our reactions.

reactions clearly has a role in our lives, and cannot just be abandoned on a whim, our reactions might be inescapable but ill-founded. We might be mistaken to react in this way and to treat our responsibility as significant *despite* what even the Strawsonian says.

Drawing on chapter 5, I want to sketch the outlines of a reply that shows that our responsibility for outcomes is significant to who we are *independently* of our reactions to it.⁷⁰ By seeing that these ethically-significant reactions respond to a feature of an agent that is plausibly significant independently of these reactions, we can set aside the worry that they are somehow misguided. To do this, I want to contrast my account with a similar effort by Raz. In *From Normativity to Responsibility*, Raz tries to vindicate the inescapability of our reactions, including agent-regret, to what we do and how this connects to “our sense of ‘who we are’.”⁷¹ Raz recognises there is a Strawsonian argument lurking, but is not satisfied with the *inescapability* of these reactions: it is one thing to show that we have these reactions, it is another to show they are “justified, and to explain their significance in our lives.”⁷² These reactions are inescapable, but are they *rightly* inescapable?

Raz’s approach turns around the independently plausible claim that our *abilities* are significant features of our ethical identities.⁷³ Being able to fish or woodwork is a part of who I am. On Raz’s picture, individual instances of responsibility are significant, and our reactions towards them are justified, in virtue of the significance of our abilities and the role they play in our identities. By reacting to particular instances of being responsible for an outcome, we “are simply affirming” that we have such abilities that allow us to be held responsible.⁷⁴ Likewise, when others hold us responsible, they “acknowledge our mastery of those abilities”.⁷⁵ When Ali beat Foreman, it affirmed that he was the world’s best boxer, and our reactions of awe at his success made sense in

⁷⁰ This is an attempt to show why our responsibility for an outcome has a place in our ethical identities. To explain why other features play this role is a different task.

⁷¹ Raz, *FNTR*, 235. For further discussion of Raz’s approach see Raz, “On Normativity and Responsibility,” 222–24; Herstein, “Responsibility in Negligence,” 173–79.

⁷² Raz, *FNTR*, 235.

⁷³ Raz, 238–39, 244–46, 268; Herstein, “Responsibility in Negligence,” 173–74. I substitute “abilities” for Raz’s “domain of secure competence”.

⁷⁴ Raz, *FNTR*, 245. He adds that these reactions have a “role in maintaining our sense of who we are, and of our relations to the world.” See also Raz, 232–38.

⁷⁵ Raz, *FNTR*, 268.

light of the connection between being responsible for beating Foreman and his abilities that made him responsible. What's more, were we not to have these reactions (to ourselves, or were others not to react in ways that hold us responsible), it would be akin—at least in some cases—to denying that an agent has such abilities that make these attributions of responsibility appropriate.⁷⁶ This amounts to denying that I have this or that identity, given the place, for Raz, of abilities in identities.

So, our responsibility for particular outcomes is significant insofar as responsibility is based on our abilities, and by reacting to these instances of responsibility we affirm that we have such abilities. These abilities carry the load when it comes to the ways in which responsibility relates to identity. When it comes to agent-regret, agent-regret is appropriate insofar as it admits responsibility for some outcome, and in doing so it vindicates that I do indeed have this ability which is part of my identity. The ability is the significant feature of who I am, the reaction to being responsible for an outcome affirms this.

Raz is right in citing our abilities as conditioning features of our ethical identities, and he is also right that in accepting responsibility we often vindicate our possession of that ability. But Raz fails to explain the *independent* significance of our responsibility for outcomes. For Raz, being responsible for some outcome, and reacting to this responsibility, is significant only as an *affirmation* of our abilities. Yet affirming the importance of our abilities does not tell us about the importance of particular instances of responsibility themselves. This is problematic on two fronts. Firstly, it's far from clear that Pirlo needs to think his responsibility for each missed free-kick matters in order to affirm that he has an ability; after all, he can just cast his mind back to the free-kicks he's scored before, and the lorry driver can think about the times he has driven safely. I argued in chapter 5 that agents are responsible for unintended outcomes because these proceed from their abilities; but, as I noted at the end of 5.5, it doesn't follow that each instance of responsibility *matters*, nor does this tell us why we should care about an

⁷⁶ Raz, 245, 268. See Heuer, "When Things Go Wrong: Responsibility for Failure and Negligence," 23. At the very limit, to deny responsibility too often or in important enough cases is to deny our very status as agents. Dan-Cohen, "Responsibility and the Boundaries of the Self," 1003; Gardner, "The Gist of Excuses"; Gardner, "In Defence of Defences"; Honoré, "Being Responsible"; Perry, "Honoré on Responsibility for Outcomes," 74.

instance of responsibility (as opposed to our status as agents). Raz's explanation doesn't account for why we might still want to hold someone responsible when we can independently verify his possession of an ability. Secondly, and more importantly, to hold that individual instances of responsibility are important *solely* insofar as they vindicate that we have particular abilities fails to explain what we have seen so far: that responsibility for particular outcomes is significant and affects how we think of an agent. Our driver who kills the child has the same abilities as a variant where he injures the child—but only our driver is a killer. We need to find a way of showing why these instances of responsibility are *themselves* significant such that we can justify why they play a role in our identities; we must ensure that our picture doesn't put the significance of being responsible for an outcome entirely in *instrumental* terms.

As I have said, Raz places great importance on the place of our abilities in our identities; but Raz also holds that these abilities are significant because of how they relate to our status as practical agents; they relate to the *impact* I can make on the world, and condition the things that I can do in the world.⁷⁷ Still, as Raz recognises, we see our abilities as doing more than just *showing* that we are potent; they are particular ways in which we can be potent, and in developing this ability over that, we show what we care about and the sort of impact we want to have over the world. Likewise, we might see our responsibility for particular outcomes as doing more than just showing that we have certain abilities. Our responsibility for a particular outcome is *also* significant as a *manifestation* of our agency in the world.

We don't just make *an* impact on the world, we make particular impacts and are agents in particular ways. Painters cannot just paint, they must paint particular things; agents cannot just act, they must perform particular actions and must be responsible for particular outcomes. When we act, we act in particular ways and, as I made clear in chapter 5, this sometimes results in unintended outcomes. My responsibility for an outcome is significant because it is the way in which I, perhaps unintentionally, make a mark on the world. It is significant aside from just being a *sign* that I have a particular ability. Rather, my responsibility for a particular outcome, although relying on having

⁷⁷ Raz, *FNTR*, 246–47. Raz relates this to our distinctness: individuals develop different abilities, “following their inclinations and capacities.”

certain abilities, is also a *manifestation* of my agency. My responsibility for an outcome is how I act as an agent who does this or did that; and I need to be responsible for this or that, whether it was intended or not, in order to *be* an agent. Thus my responsibility for particular outcomes is significant.

It is important to note that the significance of these manifestations of agency depends on how we think of ourselves as agents. Were we to think of ourselves as tossed about on the waves of an unforgiving world then a retreat to the inner citadel seems inevitable: what *we are*—what would and should affect how we see ourselves and how others see us—would depend upon features of ourselves that were entirely in our own control. But if we think of ourselves as potent but fallible, as I argued in chapters 4 and 5, then we will have a different idea. We will see ourselves as responsible for unintended outcomes and will recognise that our particular impacts on the world are significant as manifestations of our (fallible) agency. These impacts are the ways in which we are agents. So, the significance of being an agent might (see 4.1) rest on the significance with which *we* imbue being an agent, and *our understanding* of agency: as fallible.

But this is not circular. This does not implicate our interpersonal reactions, it implicates our basic conception of an agent. Our responsibility for particular outcomes is significant because of a particular view on agency but is significant *independently of* our the ethically significant interpersonal reactions and self-conceptions we have been discussing. Yet our interpersonal reactions and self-conceptions appropriately *respond* to our responsibility for outcomes. By treating our responsibility for outcomes as features of our conditioning identities, we *treat* our status as agents as significant, and we show that we think that making an impact on the world is important. The inescapability of our reactions to our responsibility for unintended outcomes is not arbitrary or mistaken but can instead be seen as a way of recognising—and bolstering—the significance of being responsible for particular outcomes. This idea of “manifestation” is nebulous, and I have not fully sketched it, though I hope we can see the difference between manifesting our agency and a sign that we are agents, and that we can recognise that it is at least plausible that manifestations are important to our “identities” as agents.

Raz’s account tells us that the particular things we do are important, and we rightly react to them, because this vindicates that we have particular abilities; having particular abilities is important, and this is because being an agent is important. I agree, but I add

that the particular things we do are important not just as signs that we have these abilities or that we are agents, but as manifestations of our agency. So, not only is outcome responsibility important insofar as our responsibility for particular outcomes is a feature that affects our self-conceptions and interpersonal reactions in a seemingly inescapable way; more than that, our responsibility for particular outcomes is itself significant in light of manifesting our potency over the world and *explains* why we have these reactions: they are a response to the ways in which we manifest our agency in the world.

Thus, we see what might be wrong with Pirlo denying his responsibility for missing a free-kick matters (or just straight-up denying that he was responsible). We need not say that in denying that his responsibility matters he denies that he has certain abilities. Instead, we can set the problem in another way: an agent's responsibility for a particular outcome is an important feature in how we react to that agent, and how that agent conceives of himself; these reactions are, as a whole, inescapable; they are rightly inescapable because our responsibility for outcomes is independently significant as a manifestation of our powers over the world. That is not to say that every time we have an impact on the world it matters (we discuss this further in 7.1). But often our impacts on the world do matter, and this is because we see ourselves as potent in particular ways. Scoring goals is significant in a way that, say, treading on the carpet is not. So, generally, scoring goals will affect how Pirlo thinks of himself. So why would he think he can exempt himself from those reactions in this case? He better have a good explanation to hand, because in denying responsibility, or denying that this instance of responsibility matters, he exempts himself (in this case) from central human reactions, and seems to ignore the independent significance of his responsibility for an outcome. We explore this a little more in chapter 7, in light of the external view.

6.6 Responsibility and identity

In this chapter I introduced the idea that our responsibility for outcomes affects our identities. I started by sketching how Honoré and Williams both advance this idea, noting that it has garnered some support as plausible and insightful. We considered the idea that essential features of our ethical identities are altered by what we are responsible for. I suggested that this was not a convincing way of understanding Gauguin's situation: he does not regret being Gauguin, nor does a failed Gauguin wish he was someone else. Yet in introducing ethical identity I stressed how it conditions our self-conceptions,

interpersonal reactions, and projects; features can affect these reactions without being essential to that individual.

I suggested that this is the best way of understanding the identity claim: not only does it avoid the implausible extremes of Dan-Cohen's position, but it captures the *importance* of being responsible for an outcome. We do not need to say, as Dan-Cohen says, that Gauguin cannot regret his success because to regret it would be to wish he was someone else. Rather, who we *actually* are (in a way that conditions how we see ourselves and how others see us) depends on, amongst other things, the outcomes for which we are responsible.

Being responsible for an outcome is important because of the role this plays in how we think of ourselves and others; this leads to a Strawsonian conclusion: we cannot just abandon these reactions for they play an important part in *human* life. But there lurked a worry that we might be somehow mistaken, so it helped to bolster this by showing why these reactions might be *appropriate* by demonstrating the significance of our responsibility for outcomes without appealing to our reactions. I suggested that Raz's approach doesn't get us quite far enough because it shows only the significance of our abilities. Instead, I suggested that we can establish the significance of our responsibility for outcomes by way of the significance of our potency over the world. Particular outcomes are not just significant as signs that we have certain abilities, or that we are agents; rather, they are the manifestations of our agency. Much as painters paint particular works, agents are responsible for particular outcomes, and we are agents *in being* responsible for particular outcomes.

This lets us finally vindicate agent-regret. Agent-regret responds to our responsibility for an outcome. This responsibility is significant because it is a manifestation of our agency, and it underpins our identities—playing a seemingly-inescapable, and ethically significant, role in our lives. Agent-regret is an appropriate reaction because our responsibility for outcomes is significant; it is significant in a variety of circumstances and can be deeply important, such as when the driver becomes a killer (which we will discuss further in chapter 7). So, agent-regret finds itself an appropriate object that can vindicate its depth and prevalence as an appropriate reaction to a deep and prevalent feature: one's responsibility for particular outcomes.

Interlude: Gauguin

I want to apply my account to Gauguin's inability to feel regret, to tie up the loose end from above left by Dan-Cohen's account failing to help us understand Gauguin's situation. Here is another approach. Gerald Lang suggests that Gauguin gains a new "evaluative perspective" on matters *by* succeeding, and this explains why he can't feel agent-regret.⁷⁸ This goes wrong, but in a different way to Dan-Cohen's account. There is a difference in evaluative perspectives between a Gauguin who adopts a project to paint in Tahiti and one who does not. *Adopting* the project to set off for Tahiti will "condition [his] later desires and judgments."⁷⁹ If he commits to going to Tahiti then the values that he previously wavered over are now solidified, he commits to the idea that becoming a painter is the supremely important task of his life.⁸⁰ But both a successful and a failed Gauguin think a painterly life is supremely important.

The reason Gauguin cannot feel regret is that he has achieved the things that he thinks are worthwhile. It is success that makes the project significant, not in terms of making the project something Gauguin *sees as* worthwhile but in terms of realising the valuable thing that he sought. If we grant Williams's assumption that Gauguin does not change his projects, we can see why he won't be able to feel regret: he has achieved what he sees as worthwhile.⁸¹ A failed Gauguin has no success, no responsibility for any particular outcome that lets him achieve what he thinks is worthwhile.⁸² The difference is not in the values they hold, but whether or not they realise those values by *becoming* painters.⁸³

⁷⁸ Lang, "Gauguin's Lucky Escape," 140–43. See also Dan-Cohen, "Luck and Identity," 12. Note that Lang does not think Williams's argument works. See Williams, "Moral Luck," 35–36. for the idea that Gauguin's "stand-point of assessment" changes.

⁷⁹ Williams, "Moral Luck," 34.

⁸⁰ Granted Williams's internalism about reasons, there is no way of saying that committing to staying home or going to Tahiti is superior. Williams, "Internal and External Reasons." This might be what Williams had in mind when he said that we cannot find a standpoint from which to compare lives, because the standpoints of assessment differ Williams, "Moral Luck," 34–35.

⁸¹ Williams, "Moral Luck," 30–31.

⁸² Jay Wallace is quite right to question whether this can, as Williams thinks, justify Gauguin's decision, Wallace, *The View from Here*, 135–36. See the rest of his chapters 3 and 4. Yet Williams only says there is a *sense* in which Gauguin's decision can be justified by his success Williams, "Moral Luck," 36. As I read things, Gauguin is justified in the sense that his decision provided him with a meaningful life; see Williams, 34–35; Williams, "PCM"; Williams, "Internal and External Reasons."

⁸³ Williams talks about Gauguin being "identified" with projects ("Moral Luck," 35–36.), and we can understand this in the way I have suggested in this chapter.

It is a difference not in the sort of people they want to be, but in the sort of people they are.⁸⁴

⁸⁴ Jay Wallace suggests that to affirm their lives the different Gauguins must find different *bases* for their affirmations Wallace, *The View from Here*, 143–55. My account has similarities with Wallace’s.

Chapter 7

Agent-Regret in our Lives

In this chapter, I expand on how what we have seen so far affects various features of agent-regret. In 7.1, I consider how what we care about affects the ascription of outcomes to agents and our reactions to this responsibility, before applying this to the external view. In 7.2, I show how the relationship between identity and outcome responsibility explains several cases of pure agent-regret. In 7.3, I consider moving on from agent-regret; I argue that agent-regret shifts over time, but an agent who feels agent-regret should not end up feeling mere regret. In 7.4 I explore the expression of agent-regret.

7.1 Care

In this section, I consider how what we care about relates to agent-regret. This will let us see how there can be a divergence in judgments over whether someone is responsible and thus whether they will (or should) feel agent-regret. It will also provide a more nuanced understanding of the role of outcome responsibility in our identities and will help us understand the external view.

7.1.1 Care and Identity

What we care about affects our ethical identities. It can have this effect in two distinct places. Firstly, it can affect *which* outcomes are ascribed to an agent in the first place. As I noted in 2.3.1, whether we ascribe an outcome to an agent—more broadly, whether we ascribe an outcome to any event—will depend upon the purposes of our inquiries and our own interests. Of course, there are general restrictions on this: it will likely be very difficult to think oneself responsible despite a variety of later interventions or if one's

action played a tiny causal role.¹ But there is an interesting case in which one might think someone is responsible for an outcome when no one else agrees: when *I*, and only *I*, judge myself to be responsible.²

We have no special concern with most other people's lives; but my own life, and my relationship with those I care about, is important to me in a way it might not be important to other people, morality, or the law. Thus my own actions (and perhaps the actions of those who are very close to me) will be more salient to me, and are more likely to stand out to me as interventions.³ Take the following case. In *The Memoirs of Miss Sidney Bidulph*, Sidney encourages her husband to go riding, he falls off his horse and dies, and she blames herself.⁴ We do not want Sidney to *blame* herself; yet we can see why she ascribes her husband's death at least partly to her own agency. But those around her might not think she is responsible. Yet in thinking herself responsible, she makes no error. Her divergence from the judgment of outsiders is a sign not that she has erred but that she cares about particular things—namely, she has a particular interest in her role in the world, and the effect she has on those she loves. It should be no surprise if her own actions are more salient and stand out more vividly to her than to others.⁵

This brings us on to a second point: what we care about affects whether we think our responsibility for an outcome is important and whether it conditions our interpersonal reactions and self-conceptions. Being masterful at the piano or knowing a lot about the Rochester Red Wings will matter to different people and will affect our self-conceptions or interpersonal reactions in different ways. We should not expect uniformity in how people react to an agent's responsibility for an outcome. Just because you care about

¹ Honoré's own response is to note that there are "objective and interpersonal principles of attribution. These principles tell us, at least approximately, which outcomes are attributable to which acts." Honoré, 225. It strikes me that Honoré downplays the potential for conflict, and my account allows for greater divergence in attributions.

² Likewise, I might be answerable not to anyone else, but only to myself, or God Duff, *Answering for Crime*, 2009, 26–27.

³ See Nagel, "Moral Luck," 37–38.

⁴ Discussed at Macpherson, *Harm's Way*, 158–59. Citing Sheridan, *The Memoirs of Miss Sidney Bidulph*, 283–87.

⁵ Relatedly: "the significance of someone's life and its relations to society may be such that someone needs to recognise and express his responsibility for actions when no one else would have the right to make a claim for damages or be in a position to" Williams, *S&N*, 74. "...to hold oneself responsible only when the public could rightfully hold one responsible is not a sign of maturity." Williams, "Voluntary Acts and Responsible Agents," 32.

something, it doesn't mean that I will. Some feature might condition how you think about me whilst leaving me unmoved. So it might be that you care about a feature and it affects your self-conception, but nobody else cares and it does not affect how others interact with you, or vice versa.

We also will often be responsible for an outcome without this mattering to anybody. Whenever we step on carpet we make a certain indent and are thus responsible for that indent, but it has no impact on anyone's self-conception or interpersonal reactions. As I noted, albeit briefly, in chapter 6: we should not think that our responsibility for outcomes is always important or that each time we are responsible this has some impact on our identities. The claim is not that every instance of responsibility alters our identities; rather, it is that in order to properly understand our identities we need to appreciate that our responsibility for particular outcomes plays some role here. Our impact on the world matters to us, but it does not follow that *every* impact matters nor that each impact matters in the same way.

So, what we care about matters to agent-regret in several respects. We saw at 5.5 that emotions presuppose care: to feel agent-regret over your responsibility for an outcome you must care about your responsibility for that outcome. But whether you judge that you are responsible will depend upon what you care about; and whether you care about your responsibility for that outcome—and thus whether it affects your self-conception—will depend further upon what you care about. Recognising this and recognising that there can be divergence over what people care about, and thus recognising that there might be debate over whether someone should or should not, will or will not, feel agent-regret, is an important step in capturing a sufficiently subtle understanding of agent-regret.

7.1.2 The external view

Seeing that care and our identities connect also helps us to understand what it means to take an external view.⁶ We may be responsible for some outcome and recognise this

⁶ On Meir Dan-Cohen's understanding, which we can see without accepting his picture of identity, we can hold certain of our features as closer to or further from "the self's "core"". Dan-Cohen, "Responsibility and the Boundaries of the Self," 972. See also 966-972, 990. Dan-Cohen's position brings out a nuance

but, for some reason or other, fail to care about this responsibility. (This can apply third-personally: others might recognise that I am responsible for an outcome yet not ascribe it any importance and not let it affect how they see me.) I suggested at 1.2.2 that when we take an external view on an action we either do not *care about* or do not *identify* with that outcome.⁷ The above discussion draws these together: the fact that my responsibility for an outcome leads me to think of myself in a different way shows that I care about this instance of responsibility.

When I take an external view on my action I regard it as if it were someone else's. I might feel regret, but I cannot feel agent-regret. We can understand this: I recognise I was responsible but I do not care that *I* was responsible and so do not let this responsibility affect my self-conception, so I can regard that action as if it were anyone else's.⁸ To take an external view is to recognise that one did make an impact on the world, but it is to insulate oneself from at least some of the reactions attendant to this. Sometimes this can reveal an immaturity in the agent, such as if Maddie doesn't care about smashing the vase because she has a tenuous grip on her own relationship with the world; other times this is perfectly fine, such as when Maddie just has much more important things on her plate. We can thus understand taking an external view in terms of both care and identity. We will return to the external view below when we discuss the expression of agent-regret in 7.4.

7.2 *Pure cases of agent-regret*

In chapter 3, I introduced pure cases of agent-regret. On my analysis of agent-regret, although in many cases of agent-regret one regrets one's responsibility for an outcome *because* one regrets that outcome, one can also regret one's responsibility without regretting the outcome. This is a novel analysis of agent-regret and I think it is the correct

that has been implicit in our discussion: something can be more or less significant to who I am. It's quite plausible that there is a spectrum between internal and external, and Dan-Cohen's view would nicely capture that.

⁷ See also Wojtowicz, "Bernard Williams on Regarding One's Own Action Purely Externally," 58–65.

⁸ Regret can affect our interpersonal reactions. Yet it need not. I might regret the fact that *someone* did this, without caring about who did it, and thus without it affecting my interpersonal reactions with anybody. Thus I can take an external view without altering my self-conception (say, via my interpersonal-reaction-to-someone-who-is-actually-me).

analysis, but it has taken a back seat in much of this thesis. What we have seen in chapter 6 helps to shed light on pure cases, and this is worth exploring.

I suggested that we can feel agent-regret without regretting an outcome itself. How can we regret our responsibility for an outcome if we don't see that outcome as in itself bad? Williams, through his characters of Jim and George, shows us that sometimes it matters who does something; Amelie Rorty, through her character of the mother who completes the daughter's project, shows us that even with good outcomes it can be bad that the wrong person brought it about; Shylock and Inigo Montoya both show us that, in cases of revenge, it can matter who metes out vengeance.

Thinking about the impact on our identities illuminates some pure cases. The effect of outcome responsibility on our identities can explain why we feel agent-regret even when we do not regret an outcome. Consider the boss from 3.2 who must fire the useless worker. She might think that in doing so, she demonstrates that she is ruthless: in doing so she might confirm that she has a certain trait (this would be akin to the Razian interpretation of why instances of responsibility matter). Or it might be that in firing him she becomes someone she was not before. She has now *fired someone*, which is a feature that many of us might find, to greater or lesser degrees, significant. The ex-employee might, unless he is particularly generous, think of her as the woman who, if not ruined his life, at least made his life much more difficult. The boss's firing someone is perhaps significant to her because her father lost his job when she was a child, and he always spoke with utter contempt of the person who fired him: so, she holds "firers" in contempt. Certainly, firing this employee won't always be salient to her, but she may sometimes think of herself in these terms and this explains why she regrets firing him.

The rifleman might regret his responsibility not because of the fact that a life has been taken from the world, but because he did it and because of what that does to *him*. His mother—horrified that her son has killed someone—tries to maintain the love and affection she has always shown him but hugs him just a little less tightly, and he notices this. What bothers him, what makes him wish he had never killed that man, is not that the convict was executed but how his responsibility for this death has conditioned how even his own mother sees him. We do not just need to think of this in terms of our interpersonal reactions; his self-conception might also be on the line. He sees himself now as a killer, and this comes with associated baggage. Likewise, the hateful driver will—

just like the ordinary lorry driver—see himself as a killer. And the press photos, the disgusted looks in the street, combined with the (as he now sees as) tasteless high-fives demonstrate just how much killing Margaret Thatcher or the warmonger will affect how others see him.

Compare a real case, though not a pure one, that demonstrates this impact on our identities. Raimond Gaita discusses a Dutch woman who hates Hitler most of all for making “a murderess of her”: she was in a plot to assassinate Hitler and had to turn three Jews out of her protection to not risk the plot.⁹ They were killed. Although she clearly regrets the death of those she was protecting, one can also recognise a self-focussed element. She does not *merely* regret their deaths, she also regrets the fact that she had a hand in it; she conceives of this in terms of the effect it has on who she is: she is now a murderess in her own eyes. Our responsibility for outcomes is part of our identities, and this identity can be lamentable. One reason we might feel agent-regret even when we do not feel regret about the outcome is that our responsibility for outcomes changes who we are.

But the Dutch woman should help to ward us away from a worry about agent-regret that is particularly prominent if my pure analysis is right: that it is narcissistic and demonstrates that one cares only about oneself. The Dutch woman is concerned with herself and the fact she is made into a murderess, but this is not her only concern: she cares also about the victims. More often than not, one cares about one’s responsibility for an outcome because one cares about something other than one’s responsibility, such as for the outcome, or for the people involved in that outcome.¹⁰ Take the lorry driver. Of course, he won’t care about the child he kills in the same way that a parent cares about their child; but we often do have a general care for other human beings and do not want to make their lives worse.¹¹ He cares about being responsible for the child’s death because he cares in this general way about the child. And *this* is why his responsibility for the child’s death affects his identity in a negative way. We have no reason to draw the unpalatable conclusion that agent-regret is *totally* self-regarding. It *is*

⁹ Gaita, *Good and Evil: An Absolute Conception*, 43.

¹⁰ See Deonna, Rodogno, and Teroni, *In Defense of Shame*, 179–84.

¹¹ See the discussion of Wallace and how we have a general care for humanity, above at 4.4.2

self-regarding—what I have done is central to agent-regret—but very often we care about our responsibility for outcomes and that responsibility impacts our self-conceptions *because* we care about the outcomes or the people implicated in those outcomes.

Yet it is true that sometimes we care about our responsibility for outcomes without caring about the people involved in those outcomes. Is this problematic? No. Not if we grant, as I think we should, that there is nothing wrong with not caring about certain people. The rifleman, although he might be saddened by the fact that the convict committed such crimes, can feel that the convict deserves to die and make no negative evaluation of his execution. There doesn't seem to be anything wrong if he nonetheless cares about his own place in the world, and his own role in bringing about that outcome: Williams's Jim gets us a long way towards seeing this.

These pure cases, and our understanding of the role that responsibility plays in our identities, also help us understand the wish involved in agent-regret. Agent-regret involves the wish that *something* had been different, but this need not involve the wish that this outcome had never arisen.¹² When we feel pure agent-regret, we might not regret the outcome, we regret that we have done such a thing. So, we might wish that we had never done such a thing without any associated wish about the outcome itself. Or perhaps we have an even more specific thought. The rifleman might wish that he didn't care about his responsibility, that he didn't think of himself as a killer or attach any negative connotations to that. Perhaps the lesson of pure cases is that even if agent-regret is not perniciously self-regarding, at its core it is about *me*. And to understand agent-regret, we need to understand this.

7.3 *Moving on*

In this section, I explore what Williams meant when he said that we should try to move the lorry driver away from his feeling of agent-regret:

“Doubtless, and rightly, people will try, in comforting him, to move the driver from this state of feeling, move him indeed from where he is to something more like the place of a spectator, but it is important that this is seen as something that should need to be done, and indeed some

¹² Williams discusses this in terms of foreseen outcomes at “Moral Luck,” 31.

doubt would be felt about a driver who too blandly or readily moved to that position. We feel sorry for the driver, but that sentiment co-exists with, indeed presupposes, that there is something special about his relation to this happening, something which cannot merely be eliminated by the consideration that it was not his fault."¹³

I do not read Williams as saying that the driver must move away from feeling agent-regret, that agent-regret is a temporary feeling and that he should end up exactly like a spectator.¹⁴ Instead, he should feel agent-regret, but its urgency and strength should decline so that he is closer to the spectator. I will argue that we can better understand moving on by considering the role that responsibility plays in our identities. I will do this by exploring the reflections of Darin Strauss, who, as a sixteen-year-old, killed a fellow student in a road accident (through no fault of his own).¹⁵

Strauss did not attempt to disavow the significance of his responsibility. It has massively impacted his life and affects how he sees himself. It had all the impacts on his identity that we might expect from chapter 6. But although Strauss always accepted responsibility and the significance of this, he tried to hide it from newer acquaintances:

"College offered a sort of witness protection program. Everyone in my high school knew. No one at Tufts did. And while I was there, they never would."

"I didn't tell any friends. I thought it would taint how they saw me. I thought they wouldn't want to know. Who would want to know? Even I didn't want to."

Strauss knew that telling people about what he had done would change how they interacted with him. Not telling them made sense, and his behaviour seems perfectly acceptable.

Being responsible for outcomes, especially particularly horrifying ones, can be "positively destructive of my sense of identity".¹⁶ Our reflections on identity make sense of this. When others think about Strauss, knowing that he is a killer—and when Strauss regards himself as a killer, which is often enough and no doubt even worse when surrounded by others who see him as one—this blots everything else out. It is destructive

¹³ Williams, "Moral Luck," 28.

¹⁴ Pace Sussman, "Is Agent-Regret Rational?," 801. See also Jacobson, "Regret, Agency, and Error," 115–16.

¹⁵ The quotes below come from the transcript of "Life After Death."

¹⁶ Beaver, "Corrective Justice and Personal Responsibility in Tort Law," 490.

of his identity not insofar as it literally destroys other features of his ethical identity, but insofar as it looms over them all, being so significant that it sandblasts the subtlety out of any interactions with him. Had it become known to the other students at Tufts, it would have altered almost every one of his social interactions.¹⁷

What does this mean for moving on? It should be unsurprising that, especially soon after we have done something or discovered our responsibility for an outcome, this can loom large over us; to move on is to stop this responsibility from looming too large.¹⁸ MaryAnn Gray, another accidental killer, tells of how her own attitude to herself has softened. Whereas once she would hear the voice of the boy who she killed criticizing her, she now still hears the voice but it has softened to the voice of a friend.¹⁹ In discussing Oedipus, Williams considers the contrast between Oedipus's "I have done it with my own hand" offered just after discovering that he killed his father and wed his mother, and his "I suffered those deeds more than I acted them" offered as he reflects back years later; Williams sees this as "Oedipus's attempt to come to terms with what his *erga*, his deeds, have meant for his life."²⁰ Oedipus moved from a self-punitive excess (he plucked out his eyes), to a far more sanguine view of what he had done and its impact on him.

But one does not get the impression that these figures entirely *lose* their agent-regret; quite the opposite, they are often clear that what they have done will always stay with them.²¹ Their regret mellows; the voices that harass them soften; the ways in which they see themselves take on a brighter mood. Why? Because their responsibility for that outcome starts to play a more nuanced, role in their view of themselves. These agents still recognise the significance of what they did, but they put it into perspective. We need not think of this as an abandonment of agent-regret, nor a move from agent-regret to a different emotion. Instead we can see this shift as akin to the shift in grief. The grief felt upon losing a loved one is a deeply intense emotion, but it inevitably fades into a softer

¹⁷ See also: "I struggle daily with the riddle of how to go on living as the person I have become. To be The Man Who killed, or not be defined by that one event?" Izard, "I Had Become a Killer."

¹⁸ The shift from an incredibly harsh and looming attitude to one in which the agent has a more nuanced and softer view of themselves, comes out in several real life accounts, see, for instance: Bartley, "Killing a Man..."; "Meeting the Man I Killed - BBC Radio 4"; Izard, "I Had Become a Killer."

¹⁹ "Meeting the Man I Killed - BBC Radio 4," 33:25.

²⁰ Williams, *S&N*, 68–69.

²¹ "I will always carry it with me." Bartley, "Killing a Man..."

form. Likewise, the impact on our identity changes, but it need not dissipate—and our regret will capture this.

The role that others play in moving on is to help move us away from being defined by this one event. But it is important they recognise that agent-regret is appropriate. Take the following from “Patricia”, who hit a motorcyclist after being blinded by a sunbeam. Patricia is clearly upset by her friends reminding her that it was just an accident:

“Yes, it was an accident, and in a certain sense we were both to blame, but, at the end of the day, I hit him, I took his life... No matter how much you want to dismiss it as an accident, I still feel responsible for it, and I am.” She cried, “I hit him! Why does nobody understand this?”²²

“It’s not your fault” can sound like it wasn’t your responsibility, and when an agent feels agent-regret they do recognise that they were responsible and are responding appropriately. Presumably, the proper route here is to remind the agent that, although it looms large over who they are—and it always will—their responsibility for killing a child is not all there is to who they are. We should respect they were responsible but remind them that our identities are made up of more than our deeds and that we have many deeds not just one. Sometimes they are important and should be prominent, but accidentally killing someone should not obliterate everything else in an innocent person’s life.

7.4 The expression of agent-regret

Now, we shouldn’t suppose that this shift in the force of our agent-regret just *happens*, sometimes the agent needs to take certain steps. One way of moving on is linked to the “expression” of agent-regret—the actions it urges us to perform—and pure cases help us to see some interesting ways that agent-regret might be expressed.²³

One who feels agent-regret will often feel the need to “act in some way which he hopes will constitute or at least symbolise some kind of recompense or restitution.”²⁴ Williams points out that one can be willing to compensate despite taking an external view, and if

²² Gregory, “The Sorrow and the Shame of the Accidental Killer.”

²³ Williams, “Moral Luck,” 27.

²⁴ Williams, “Moral Luck,” 28.

one takes an external view one would be just as happy were an insurance company to pay out whereas this leaves one unsatisfied in a case of agent-regret.²⁵ I have explored this in more depth elsewhere, but a simple way of explaining this expression and the difference with compensation is by focussing on why one makes such a pay-out. An agent might be willing to pay compensation because they think that, all things being equal, it is unfair to leave the costs of one's actions on someone else. What matters here is the unfairness of the other person suffering the burden; were that to be eased by an insurance pay-out, the need to compensate would disappear, and our agent would be satisfied.²⁶

Williams's suggestion is that an agent who feels agent-regret will be motivated by a different thought. He is not only motivated to pay out of considerations of fairness, although these may play a role. Instead, it seems that his own responsibility is what underpins much of his desire to make amends—it is his responsibility for the outcome that urges him to make amends.²⁷ Why would the agent have to be the one to make amends? And why do I suggest that this expression might help us in moving on?

One explanation is that, despite trying her best, the agent violated a reason and that reason *persists*, just in some other form.²⁸ You had a reason not to harm me because this makes my life worse, and although you have harmed me—through your action that left you responsible, without being at fault, for my injury—you might still comply, in some other way, with your reason not to make my life (overall) worse. This is what John Gardner calls the continuity thesis. Although we can quibble about the details, it strikes me as a reasonable way of understanding why we must make amends. This helps us to make sense of how we can move on in feeling agent-regret. If you have reasons to make amends, then this exerts some pull over you and may well compound the strength of your emotions; once you conform to these reasons as best you can, then the weight of

²⁵ Williams, 28–29.

²⁶ Wojtowicz, “Bernard Williams on Regarding One's Own Action Purely Externally,” 63.

²⁷ Williams, 29.

²⁸ See Gardner, “What Is Tort Law For? Part 1.” For two interesting theories of compensation that have some affinity with Gardner's work, see Karhu, “Non-Compensable Harms”; Slavny, “Negating and Counterbalancing.”

non-compliance lifts and it will be no surprise that your emotional reaction lightens as well.

This strikes me as a reasonable way of understanding many expressions of agent-regret; but I will focus elsewhere, on how our picture of outcome responsibility and identity relates to the expression of agent-regret. As I noted above, we can soften our agent-regret by re-evaluating the importance that instance of responsibility plays in our identities. It should be clear that this won't always succeed through merely thinking about things or talking to others. Quite often, we will have to do things, altering how we see ourselves and how others see us by doing *other* things. The following example illustrates how our actions can do this. John Profumo was involved in a sex scandal; he was Secretary of State for War and slept with the same woman a Russian naval attaché slept with. And he lied to parliament about it all. After being caught lying, he resigned in disgrace. Soon after this, he started helping out at a local charity, which he served for decades. His work has been described in terms of atonement and redemption.²⁹ Profumo's actions changed how people saw him. He was no longer seen just in light of his sex scandal—although he was still seen in such lights—but also in a new light, as a redeemed figure. His amends also amend his identity.

No doubt Profumo's actions were also an attempt at making amends for what he had done, if not the fact he had lied to parliament at least the fact he had let down those he served in parliament; it was a way of making this up to the people by helping people more directly. But those who feel pure agent-regret have no such concerns. It wouldn't make sense to try to compensate for the harm wrought by their actions because they do not regret this harm. What option is left open to someone who does not want to make up for the outcome itself, but only is concerned with their own responsibility for it? The important factor is why they care about their responsibility. The rifleman might focus on altering how particular people (such as his mother) see him. The hateful driver might focus on why he thinks being a killer matters and on performing some constructive steps that get him to move past just seeing himself as a killer. What should be clear is that

²⁹ "Profumo's Charity Work Remembered." See also Runciman, "Take a Bullet for the Team."

their actions will not be directed to those who they have harmed—they will be directed to, say, reforming their own identities.

We find a vivid example of how someone can change how others see them (albeit, in this case, unintentionally) in Ian McEwan's *Atonement*. Robbie, trying to help Cecilia, smashes her vase and a shard drops into a fountain; "Denying his help, any possibility of making amends, was his punishment": she steps into the fountain herself to retrieve the shard.³⁰ Robbie still wants to make amends, or at least apologise, and drafts a rather bland letter of apology. In another draft of the letter, which he means to discard, he writes "In my dreams I kiss your cunt [...] In my thoughts I make love to you all day long."³¹ He accidentally sends the explicit note. Cecilia receives it, their recent tension breaks, and they have sex in the library.

This is not a point about amends, nor need we suppose that Robbie is actively trying to alter how Cecilia thinks of him—although clearly in drafting the bland letter he wanted to make amends or at least stop Cecilia from allowing the vase-breaking incident to loom too large. Rather, the point is simpler: after he sends the explicit letter, all thoughts of the vase are long gone. By accidentally sending the explicit letter, Robbie completely alters how Cecilia thinks of him. (The letter also affects how Cecilia's sister (who reads it) thinks of Robbie—the perception others have of him is massively impacted by the letter, and this drives the novel.)

The point for us is that the things we do can have a greater or lesser impact on how people see us. Sometimes, we can alter how people see us and lessen the importance of our responsibility for particular outcomes (at least insofar as it affects our interactions with that person) by establishing or highlighting *other* of our features for them to focus on that have *nothing to do* with the original incident. Cecilia now sees Robbie as a sexual being, and the vase is no longer important. Someone who feels agent-regret might learn from this; they might take their responsibility for that outcome and scrub it from their identity as much as possible—but to do this, they don't always have to attend to the action that they regret.

³⁰ McEwan, *Atonement*, 28–29.

³¹ McEwan, 80.

Identity certainly does not carry all the weight when it comes to the expression of agent-regret; but I hope to have shown that the expression of agent-regret *can* aim at affecting one's own identity, and in pure cases this might be all that the expression needs to do. Agent-regret, in its purest form, shows no concern for the people or objects involved in the outcome. What matters is the fact that I was responsible, and sometimes this matters *because* it affects how others see me. Yet even when agent-regret is pure, to totally scrub away one's responsibility for an outcome from one's identity, either by denying responsibility or denying any importance to this, will often be inappropriate. We must respect our potency as agents. Working out what steps are appropriate will be a fraught task.

7.5 Conclusion

Robbie's case reinforces something I mentioned at the end of 7.3: our ethical identities are conditioned by a wide variety of features. Outcome responsibility and agent-regret is embedded in the larger mess that is our lives. Love, sex, friendship, enmity, unrelated projects, or any manner of other parts of our lives, might affect how we judge our responsibility for outcomes and the presence or absence, strength or weakness, of agent-regret. One thing I regret in this thesis is that I have not made this clearer throughout. Yet I hope to have made *agent-regret* clearer. My focus has been on defusing a variety of prominent challenges to both the nature and justifiability of agent-regret. I hope that by paying keen attention to the nature of agent-regret, and then bringing attention to the importance of our responsibility for outcomes, I have offered a defence of our propensity to feel agent-regret. Agent-regret takes as its object our responsibility for an outcome (including when that outcome was not intended) and agent-regret is appropriate (justified, rational, etc.) *because* such responsibility is *important*. Agent-regret is appropriate, and to feel it is to respond properly to important aspects of ourselves as human agents in this world.

But we will not come to a clear understanding of agent-regret unless we appreciate what I have called the purity of agent-regret: that we can regret our responsibility for an outcome without regretting the outcome itself. Any proper account of agent-regret must pay heed to this, and—although the purity of agent-regret has not been my focus—I hope to have at least made progress by exploring the impact that our responsibility for

outcomes has *on us*. I hope to have made it clear that to properly understand agent-regret, we need to understand how Adam Smith was right when he wrote:

*“[T]he evil which is done without design should be regarded as a misfortune to the doer as well as to the sufferer.”*³²

³² Smith, *TMS*, II.iii.3.4.

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